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COMMONWEALTH OF MASSACHUSETTS

NORFOLK, SS.

SUPERIOR COURT DEPARTMENT
OF THE TRIAL COURT

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COMMONWEALTH OF MASSACHUSETTS,

v.

KAREN READ.

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* Docket No. 2282CR00117
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TESTIMONY OF YURIY BUKHENIK
BEFORE THE HONORABLE BEVERLY CANNONE
THURSDAY, MAY 9, 2025

APPEARANCES:

For the Commonwealth:

BY: HANK BRENNAN, A.D.A.
ADAM LALLY, A.D.A.
LAURA LAUGHLIN, A.D.A.

For the defendant:

BY: DAVID YANNETTI, ESQ.
ALAN JACKSON, ESQ.
ELIZABETH LITTLE, ESQ.
ROBERT ALESSI, ESQ.

Also present:

Cindy Gilman
Evan Wolk

Courtroom 25
Dedham, Massachusetts

Christine D. Blankenship, CVR
Court Reporter/Transcriber

I N D E X

WITNESS:	DIRECT	CROSS	REDIRECT	RECROSS
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Yuriy Bukhenik (By Mr. Jackson)	5
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1 (Testimony begins at 9:06 a.m.)

2 THE COURT: Could we bring Sergeant Bukhenik in,
3 please. And, Mr. Jackson, when you're ready.

4 MR. JACKSON: I'm ready, Your Honor.

5 THE CLERK: Sergeant, I remind you are still under
6 oath.

7 THE WITNESS: Thank you. Good morning. Good morning,
8 ladies and gentlemen.

9 MR. JACKSON: May I inquire, Your Honor?

10 THE COURT: Yes.

11 MR. JACKSON: Thank you.

12 **CROSS-EXAMINATION**

13 **BY MR. JACKSON, continued:**

14 Q Good morning, Sergeant.

15 A Good morning, sir.

16 Q Yesterday, when we left off, we had been discussing one
17 of the trips you made out to 34 Fairview, specifically on
18 an occasion in which you met Chief Berkowitz.

19 I want to ask you a couple of questions to follow up on
20 those questions that I asked yesterday.

21 Did Chief Berkowitz ever talk to you about his
22 communications with Brian Albert and/or Brian Higgins
23 either at that time or afterward?

24 MR. BRENNAN: Objection.

25 THE COURT: Sustained.

1 Q Did you learn that Chief Berkowitz had communicated,
2 one way or the other, without telling me anything that they
3 said, did you learn whether or not Chief Berkowitz had
4 communicated with Brian Higgins?

5 A No.

6 Q Did you learn that Chief Berkowitz had communicated
7 with Brian Albert, and I'm talking about in the days before
8 you were at 34 Fairview Road, which was February 4th, from
9 the 29th to February 4?

10 A No.

11 Q You returned to the scene, you indicated on direct
12 examination, on or about February 10, 2022, to conduct yet
13 another search, correct?

14 A Yes.

15 Q And on that particular occasion, you recovered some six
16 pieces of red and/or clear and/or black plastic; is that
17 how you testified?

18 A There was numerous pieces. The exact number, I don't
19 know. You'd have to refresh my memory with a report.

20 Q Okay. There was several pieces. The exact number I'm
21 not really worried about. There were several -- there was
22 more than one?

23 A Yes.

24 Q Okay. There were also some clear glass pieces, correct?

1 A Again, I don't know exactly, but if a report can be
2 presented that would refresh my memory.

3 Q Okay. Let me -- let's do that real quick.

4 MR. JACKSON: May I approach, Your Honor?

5 THE COURT: Yes.

6 Q Sergeant Bukhenik -- actually, let me give you the
7 front page of that as well. Just familiarize yourself with
8 it. Let me know when you familiarize yourself with that
9 report.

10 A (Witness complies.)

11 MR. JACKSON: May I approach, Your Honor?

12 THE COURT: Yes.

13 MR. JACKSON: Thank you.

14 Q Sergeant, did you have an opportunity to take a look at
15 this report?

16 A I did.

17 Q Did that refresh your recollection to the items
18 generally that you recovered on February 10?

19 A Yes, it did.

20 Q Did you recover approximately six pieces of red, black,
21 and clear plastic, and fourteen pieces of glass and plastic
22 fragments?

23 A Yes, I did.

1 Q Okay. You had obviously considered that to be an
2 incredibly important part of the investigation, recovering
3 physical items at the scene of the incident, correct?

4 A Every piece of item evidence is important.

5 Q Can you describe for the jurors exactly where each of
6 the - let's take them one at a time - where each of the six
7 pieces of plastic fragments were found?

8 A All items recovered that day were found in the general
9 vicinity where the other items were also located. The area
10 had been excavated. I've been to that location several
11 times, and it was all located in the general vicinity where
12 it was initially excavated, but also where I was told Mr.
13 John O'Keefe was found on the morning of January 29, 2022.

14 Q So other than saying in the general vicinity, did you
15 seek to -- did you seek to actually document where each
16 item was found? In other words, by cross coordinates or
17 other such manner?

18 A The exact location where each item was recovered from
19 was not documented with a picture or GPS location. It was
20 still within the general vicinity of that 40 to 50 square
21 feet of snow, by my approximation, near the flagpole,
22 between the street and the flagpole, and the fire hydrant.
23 It was all the same general vicinity.

24 Q So 40 to 50 square feet would be a 10 foot by 5 foot
25 square, correct?

1 A Generally speaking, 50, yeah, 5 by 10. General area.

2 MR. JACKSON: If I may, Your Honor, if I may approach
3 just a little?

4 Q Would you agree with me, I'm not going to pull out a
5 measuring tape, would you agree I'm about, about 10 feet
6 away from you right now?

7 A I would agree with you, yes.

8 Q Okay. And from the jury bar, probably about 5 feet from
9 there?

10 A Yes.

11 Q So we're talking about a relatively broad area for
12 small pieces of physical evidence to be found. You would
13 agree with that?

14 A I would, again, estimate it was the general area, maybe
15 10 feet in one direction, 10 feet in another 5 feet out,
16 maybe 3 feet out. They were the general area where it was
17 initially excavated and then expanded with the snow
18 melting, and all the pieces were within that general area.

19 Q But you were working on an assumption at that point, on
20 an assumption that there was some kind of an impact at 34
21 Fairview, correct?

22 A I don't understand what you're asking.

23 Q You were working on an assumption or a presumption that
24 there was an impact of a physical item in your view, an

1 SUV, with a human being, correct? That was your
2 presumption at the time?

3 A The evidence was pointing that impact took place
4 because there was damage to the taillight, large chunks of
5 it was missing, and we were locating pieces that were
6 consistent with texture, color, and size, fragments from
7 that SUV on the lawn. So I wasn't assuming anything. The
8 evidence was speaking to us.

9 Q You weren't there, correct?

10 A I was there recovering the evidence, yes.

11 Q You weren't there at the time of the incident?

12 A No, of course not.

13 Q So you were utilizing assumptions and presumptions
14 based on information that was provided to you, yes or no?

15 A We work by learning information, collecting evidence,
16 and getting that evidence to suggest what happened. That
17 evidence is tested, and then it's all put together into the
18 case.

19 Q You used the word, "to suggest what happened," correct?

20 A Yes.

21 Q Another word for a suggestion is if something is
22 suggested to you, you then receive it and assume certain
23 things based on that suggestion?

1 A What we do with the suggestions, we corroborate. A
2 witness statement is, I guess you could say, a suggestion,
3 and then we corroborate it through evidence.

4 Q And, of course, you make assumptions based on those
5 suggestions, correct? Yes or no.

6 A We have theories.

7 Q Another term for a theory is an assumption or a
8 presumption, correct?

9 A I guess in some respect you can say that, but I'm not -
10 -

11 Q Okay. So the answer is yes?

12 A I'm not going to argue about semantics here.

13 Q Well, you'll agree that words matter, right? I mean,
14 you're testifying, so words matter.

15 A Words do matter. That's you know, that's important.

16 Q So working off of your, as you put it theory, you
17 theorized that there was an impact spot at 34 Fairview,
18 correct?

19 A Based on the statement, "I hit him," I assumed Mr.
20 O'Keefe was impacted with something. Initial hours of the
21 investigation, we had those statements, "I hit him." We
22 had the statements that, "Oh, my God. Did I hit him?" So
23 utilizing that information with the evidence at that point
24 that we had was a broken cocktail glass. So a theory would
25 be, why is the cocktail glass broken? Because it came into

1 contact with the victim. So that's why my information
2 communicated to the ME's office was a possible domestic
3 involving of a glass strike to the victim.

4 As a result, we had to go and see the victim's body and
5 the injuries. So Mr. O'Keefe's injuries presented a
6 certain way, and we learned more information. So the more
7 information that comes in, the more information that we are
8 able to corroborate statements, and collect evidence that
9 further corroborates other information, is helpful in the
10 investigation. That's how investigations develop. If we
11 knew everything we knew from day one, there wouldn't be a
12 process of developing investigation.

13 Q So the answer to my question, Sergeant, is you were
14 working off of a theory, correct? Yes or no.

15 A We were working off a report of an injured male party,
16 and then we developed the information, collected the
17 evidence, and developed the investigation.

18 Q Do you know what the word theory means?

19 A I'm sorry. English is, like, a third language for me,
20 so if you can bring up the *Webster's Dictionary*, I can read
21 it out.

22 Q You want me to pull up a *Webster's Dictionary*? You
23 want to take a break real quick and pull up the *Webster's*
24 *Dictionary* to define the word that you used in an answer
25 about 40 seconds ago: We were working off a theory.

1 Quote/unquote. You said it; not me. You want me to go get
2 a dictionary so we can figure out for the jurors what that
3 word means.

4 MR. BRENNAN: Objection.

5 THE COURT: All right. Sustained. Let's move along,
6 please.

7 Q You would agree with me, Sergeant Bukhenik, that if
8 your theory was that there was an impact, the site of that
9 impact would be incredibly important, correct?

10 A Very important, yes.

11 Q And on February 10, you went out to the scene, and you
12 indicate that you found six pieces of black clear and red
13 plastic material, and 14 pieces of glass material, and some
14 other plastic material as well, correct?

15 A Yes.

16 Q You didn't photograph it; is that right?

17 A No, I did not.

18 Q You didn't do any plotting of cross coordinates which
19 would have been easy to do to determine exactly where each
20 piece was found, correct?

21 A It would not be easy for me. I don't how to do that.

22 Q You've never learned how do -- how to plot cross
23 coordinates?

24 A I don't have the tools to GPS coordinate an item.

1 Q You take two points that are stable. Do you know what
2 cross coordinates are? Take two parts that are stable,
3 like for instance, I don't know, let's pick something.
4 Like a flagpole that doesn't move. And you draw a line,
5 pull a string directly over the item that you find, and
6 then you take another item -- I'm sorry -- another stable
7 item that's perpendicular to that, pull that straight, put
8 it down. That's exactly - you measure the distance between
9 the two - that's exactly where that item -- where those two
10 strings cross, that's exactly where that item's found.
11 That's cross coordinates, isn't it?

12 MR. BRENNAN: Objection.

13 THE COURT: Sustained.

14 Q Have you ever heard of that?

15 MR. BRENNAN: Objection.

16 THE COURT: Sustained.

17 Q Do you know what cross coordinates are?

18 A No.

19 Q Do you know how to plot cross coordinates?

20 A You just demonstrated it to me.

21 Q Does that sound reasonable and easy?

22 A What you explained sounds easy, yes.

23 Q And you didn't do that?

24 A I did not, no.

1 Q You also didn't -- by the way you had your cell phone
2 when you went out there on February 10, correct?

3 A I would assume so, yes.

4 Q Your cell phone has a camera hooked into it, correct?

5 A Yes, it does.

6 Q You indicated on direct examination you didn't think it
7 was necessary to call out a forensic photographer to
8 photograph and photo document where these items were found;
9 is that right?

10 A That's right.

11 Q But you could've pulled your cell phone out and taken
12 photographs of, right?

13 A I guess I could've, yes.

14 Q But you didn't do any coordinates, and you didn't take
15 any photos?

16 A I did not, no.

17 Q Can you show us a report that memorializes where you
18 supposedly recovered these items?

19 A Yes. The report you showed me, number 83, that
20 documents that they were all recovered at 34 Fairview Road.

21 Q Right. So that's correct. There's a report after the
22 fact that establishes that they were recovered generally at
23 34 Fairview Road on February 10. But is there a report
24 that describes exactly where on the property at 34 Fairview

1 or off the property at 34 Fairview these 20 items were
2 found?

3 That's a question; I'm waiting.

4 A Oh, I didn't realize.

5 Q You didn't hear the question?

6 A Was there a question? Go ahead, please.

7 Q Sure. Is there a report that documents exactly where at
8 34 Fairview on the property these 20 odd items were found
9 exactly?

10 A The report documenting where they were recovered from
11 is number 83 that you just presented. Exact location is
12 the same general vicinity. If it was something different,
13 if we located these items across the street, a different
14 section of the yard, that would have been documented.

15 Q What's documented in the report that you just
16 referenced, it says bullet point 2/10/22, meaning February
17 10, '22, at 9:51 -- sorry 9:15 a.m., Sergeant Bukhenik
18 secured six pieces of red, black, and clear plastic.
19 Period.

20 That's what it says, right?

21 A Same general vicinity. If there was a different
22 location -- Q That's what the report says, isn't it? That's
23 all I'm asking. That's what the report says, what I just
24 quoted?

25 A That's the description of the items recovered.

1 Q So the answer is yes. That's what the report says.

2 A That is part of the report. That is the description of
3 the items recovered on that date.

4 Q And the bullet point beneath that says, February 10,
5 2022, at 9:15 a.m., Sergeant Bukhenik secured 14 pieces of
6 glass and plastic fragments, correct?

7 A That's correct.

8 Q There is no further description of where those items
9 were found, is there?

10 A There is.

11 Q What's the further -- where's the report with the
12 further description of exactly where it was found?

13 A It might not be in the report. It might be on the
14 description of the bag describing that it was 34 Fairview
15 Road. The report indicates and encompasses itself where
16 those items were recovered from. Clearly, the same general
17 vicinity the initial items were recovered from. If there
18 was a need to document a different location, it would have
19 happened.

20 Q But you didn't see the need to document the exact
21 coordinates where those items were found, did you? You
22 didn't see the need?

23 A It did not happen.

24 MR. JACKSON: May I approach, Your Honor?

25 THE COURT: Yes.

1 Q Can you take a look at that photograph, and tell me if
2 you recognize it, what's depicted in it?

3 A Yes, I do.

4 Q What's depicted in that photograph, just generally?

5 A It's the side of an evidence bag that the items were
6 secured in. It documents the case number, the date, time,
7 who recovered it, and general description of the six pieces
8 of red black and clear plastic recovered from 34 Fairview
9 Road in Canton.

10 MR. JACKSON: I would like to have that marked and
11 moved into evidence, Your Honor.

12 THE COURT: Okay. Is there any objection?

13 MR. BRENNAN: No, there -- no objection.

14 THE COURT: Okay.

15 (Whereupon 111, Photograph, was marked as an exhibit.)

16 MR. JACKSON: May I approach, Your Honor?

17 THE COURT: Yes.

18 Q You indicated that the evidence bag would help
19 determine where the exact location was that these items
20 were found, correct?

21 A The general location where they were recovered from.

22 MR. JACKSON: May we publish this, Your Honor?

23 THE COURT: Okay.

24 Q Does this look like the photograph you were just
25 reviewing?

1 A Yes, it does.

2 Q That's just been marked as evidence?

3 A Yes, sir.

4 Q And can -- Mr. Wolk, we you make that a little larger
5 so it's more legible? Can you read that from where you
6 are?

7 A I can.

8 Q Moving past the date -- I'm sorry. Moving onto the
9 date, what date was that?

10 A Date collected is 2/10/22.

11 Q So that's the date that we've been talking about,
12 correct?

13 A That is correct.

14 Q And this indicates, "Collected by," and who's that?

15 A That's myself, Sergeant Bukhenik.

16 Q Description of evidence. This is where the description
17 of the evidence is located on this evidence bag, correct?

18 A General description identifying what's inside.

19 Q And what does that description read?

20 A Six pieces of red, black, and clear plastic.

21 Q And that's all it says about the description, correct?

22 A Yes.

23 Q Then it indicates location where collected, and there's
24 several lines that are available to fill in, correct?

25 A Correct.

1 Q On that first line, what does that read?

2 A 34 Fairview Road, Canton, MA.

3 Q And that's it, correct?

4 A That's all that was put, yes.

5 Q And you didn't fill this bag out, did you?

6 A No, I did not.

7 Q Who did?

8 A I did not.

9 Q Who did?

10 A I don't know.

11 Q You don't recognize the handwriting?

12 A No, I do not.

13 Q You don't recognize the handwriting of your partner and
14 subordinate, Michael Proctor?

15 MR. BRENNAN: Objection.

16 THE COURT: Sustained.

17 Q Are you aware that Michael Proctor filled this out?

18 MR. BRENNAN: Objection.

19 THE COURT: Sustained.

20 Q Were you with Michael Proctor when this was bagged?

21 A No, I was not. I was by myself.

22 Q Did you give the items of evidence to Michael Proctor
23 to bag?

24 A No, I did not.

25 Q Who did you give it to to bag?

1 A I bagged it myself.

2 Q Whose handwriting is that?

3 A I do not know.

4 Q If you bagged it yourself, why wouldn't you fill out
5 the evidence envelope?

6 A I bagged it and turned it over, and I told them exactly
7 where it was and what time so someone else wrote the
8 information.

9 Q You just said, "I bagged it, and told him, told him."

10 A Turned over.

11 Q No, sir. No, sir. What you just said was, "I bagged
12 it and turned it over, turned it over to him," and you
13 don't know who it is that you turned it over to? Who is
14 him?

15 A Turned it over to them.

16 Q Who's them?

17 A Them.

18 Q Okay.

19 A Whoever wrote it.

20 Q So we're just in a circle here? We can --

21 MR. BRENNAN: Objection to the commentary.

22 THE COURT: So, Mr. Jackson, no comments, okay, just
23 questions.

24 MR. JACKSON: Understood. I apologize. Ignore my last
25 comment.

1 Q You have items of evidence that you've already
2 described as being incredibly important, correct?

3 A Those are your words. I actually changed. I said,
4 "Every single piece of evidence is important to me."

5 Q Okay. Since this is part of every piece of evidence, do
6 you think this evidence was important?

7 A Every piece of evidence is important.

8 Q So was this evidence important; yes or no?

9 A Yes.

10 Q So you had the evidence and turned it over to someone
11 whom you don't know and can't identify; is that what we
12 understand?

13 A It was a member of the Massachusetts State Police
14 assigned to our office. It wasn't just a random person. I
15 can't specifically identify who it was or who wrote on that
16 bag. I know it was a trusted member of our unit and part
17 of the investigative team.

18 Q How do you know it was a trusted member of your unit
19 and a part of the investigative team if you can't tell
20 these jurors who it was? How do you know that?

21 A Because I wouldn't have turned it over to a random
22 stranger. Q Okay. So let's figure out the possibilities.
23 Who are among those to whom you would have turned this
24 stuff over? Who were among them?

1 A There was four troopers in the detective unit at that
2 point assigned to homicide.

3 Q Let's name them. Who are they?

4 A It was Trooper DiCicco, Trooper Kostkowski, Trooper
5 Dunn, and Trooper Mike Proctor.

6 Q As you sit here today, do you believe or do you recall
7 turning it over to Trooper Dunn?

8 MR. BRENNAN: Objection.

9 THE COURT: Are you going to go through each person?

10 MR. JACKSON: Every one of them; there's only four.

11 THE COURT: I'll allow this question.

12 Q Do you remember turning it over to Trooper Dunn?

13 A No.

14 Q Do you remember turning it over to Trooper Kostkowski?

15 A No.

16 Q Do you remember turning it over to Trooper DiCicco?

17 A No.

18 Q Do you remember turning it over to Michael Proctor?

19 A No.

20 Q So it might have been just a random stranger, right?

21 A That's a ridiculous suggestion.

22 Q Have you ever seen Trooper Proctor's handwriting
23 before?

24 A Yes.

1 Q A matter of fact you've seen it, I'm guessing, not
2 dozens, maybe hundreds of times, correct?

3 A Not hundreds of times, no.

4 Q Dozens of times --

5 A Sure.

6 Q -- over the years?

7 A Sure.

8 Q On evidence bags, on logs, on notes, things of that
9 nature?

10 A Some evidence bags, some notes.

11 MR. JACKSON: May I approach, Your Honor?

12 THE COURT: Yes.

13 Q Can you take a look at that document and tell me if you
14 recognize it?

15 A The whole thing or just the front page?

16 Q No, just flip through and tell me if you recognize
17 generally what that is.

18 A It appears to be a bunch of handwritten notes from
19 possibly witness interviews.

20 Q Handwritten notes by whom?

21 A Well, you labeled it Proctor. I don't know who it is.
22 Based on the individuals interviewed, it might suggest that
23 these are Michael Proctor's notes.

24 Q Okay. So you're testifying that I labeled that Proctor?

25 A I don't know.

1 Q Right. So you don't know.

2 A You provided a document to me, so.

3 Q Correct, I know. And then you just testified that I
4 labeled that Proctor. How do you know I labeled that
5 Proctor?

6 A Well, I got it from you.

7 Q You didn't see me write that note.

8 MR. BRENNAN: Objection.

9 THE COURT: Sustained. Questions please, Mr. Jackson.

10 MR. JACKSON: Sure.

11 Q That appears to be Michael Proctor -- a series of
12 Michael Proctor's notes, correct?

13 A That's what's suggested, yes.

14 Q Okay. Can you turn to the first tab, the first purple
15 tab?

16 A Some of these came off.

17 Q It's fine. It's fine. I'm just interested in the
18 purple tab. Do you see a series of handwritten notes that
19 appear to be from Michael Proctor? I'm not worried about
20 the content.

21 A Sure.

22 Q Do you see the highlight?

23 A Yes.

24 Q What's the word that's handwritten in the highlight?

25 MR. BRENNAN: Objection.

1 THE COURT: So why don't we come to sidebar with this
2 document, please?

3 MR. JACKSON: Sure.

4 (Sidebar commences:

5 MR. JACKSON: I'm going to ask him to identify that
6 word "Fairview" and to identify that word "Fairview". It's
7 very obviously the same handwriting. If he weren't
8 fighting me on this, I wouldn't be doing it, but it's very
9 obvious that Trooper Proctor filled this out.

10 THE COURT: What do you say?

11 MR. BRENNAN: A layperson shouldn't be giving an
12 opinion on handwriting. He's doing it --

13 THE COURT: I'm sorry. We're not getting a record.
14 (Counsel confer.)

15 THE COURT: Go ahead.

16 MR. BRENNAN: A lay witness should not be asked to be
17 doing a handwriting exemplar. He's asking for an opinion;
18 it's an admissible opinion.

19 MR. JACKSON: A lay opinion in Massachusetts.

20 THE COURT: Hold on. I disagree with that argument
21 with this witness. So this is really it's a question for
22 the jury, right, whether they believe what's written here
23 is the same as this?

24 MR. JACKSON: It is. I wasn't going to admit this, but
25 I certainly can.

1 THE COURT: Okay. So you can ask him to read that word.

2 MR. JACKSON: I was going to ask him, with the Court's
3 permission, to simply compare the handwriting of that word
4 to the handwriting of that word. It's the exact same word,
5 and they look identical.

6 THE COURT: That's sort of going back to the lay
7 witness.

8 MR. JACKSON: A lay witness's opinion on handwriting is
9 permissible in the Massachusetts.

10 THE COURT: So, well, it depends.

11 MR. BRENNAN: I don't think he should be put in a
12 position of doing a handwriting exemplar. I would not
13 object, if they redacted that page, and put in that line or
14 that word, and then introduce that as an exhibit. I
15 wouldn't object to that --

16 THE COURT: So let's do that. Well, and that's, like I
17 said, this is for the jury; it's not for this witness.

18 MR. JACKSON: Understood.

19 THE COURT: All right. So whatever you have here, if
20 you could just --

21 MR. JACKSON: It's that page and it's -- there's two
22 examples of it on that page. So I'll redact everything
23 except that line and that line.

24 MR. BRENNAN: I think one's enough.

25 THE COURT: Yeah, so one-to-one.

1 MR. JACKSON: Okay.

2 THE COURT: And it's up to the jury, so just that,
3 "Left on Fairview," like are you just going to do the word?

4 MR. JACKSON: I'll just do the word. I can just redact
5 everything except the --

6 THE COURT: All right. And that'll be for the jury to
7 decide. So we can move on from this questioning.

8 MR. JACKSON: Can I -- just to close the loop, can I
9 ask him does he believe that these are similar, does
10 that --

11 THE COURT: No. So the correct way, again, because
12 it's something for the jury.

13 MR. JACKSON: Okay.

14 THE COURT: And you could argue his credibility on that
15 or whatever you want to do, but it's for the jury. So
16 we'll let somebody redact this now and --

17 MR. JACKSON: We can have Mr. Wolk --

18 THE COURT: -- put it into evidence at some point.

19 MR. BRENNAN: The next --

20 MR. JACKSON: And I can move on.

21 THE COURT: Okay. I'm going to give that back to the
22 court reporter, this back to you.

23 MR. JACKSON: Thank you.

24 end of sidebar.)

25 MR. JACKSON: May I have just a moment, Your Honor?

1 THE COURT: Yes.

2 Q In the ordinary course of business, is it normal or
3 standard operating procedure that the person who recovers
4 items of evidence fills out the evidence bag
5 contemporaneous to the recovery of the item?

6 A It's possible you can do that. If there's a reason
7 that you have to leave, like an emergency or weather
8 conditions, you can't write on a bag, you can fill it out
9 later if you have the time and you know where you recovered
10 it from. Just like, you know, in this instance, if there
11 was a general vicinity with all the other fragments where
12 evidence was collected from, it's known that it was in the
13 general area of that section of the lawn near the flagpole
14 between the street and the flagpole and the fire hydrant.

15 Q Well, except --

16 A So it's --

17 Q -- the person that filled out that evidence envelope
18 wasn't with you?

19 A Well, I passed that information along to.

20 Q I see. So now it's hearsay information is being passed
21 along to someone else to fill out the envelope.

22 MR. BRENNAN: Objection.

23 THE COURT: Sustained.

1 Q It's secondhand, let's use that word, secondhand
2 information to the person who's filling out the evidence
3 envelope, correct?

4 A No, it's firsthand information. I pass it along to
5 them.

6 Q So it went from you to a person filling out the
7 envelope who wasn't there, that's at least a reality?

8 A I was by myself so, yes. I told the individual what
9 time, what location, the case number, the date, obviously.

10 Q How do you know? How do you know that you told the
11 individual to whom you passed this along the time, the
12 location, the day? How do you know that as you sit here?

13 A Because that information was then put on the bag and
14 documented.

15 Q But you can't even remember who you talked to?

16 A I do not remember specifically who I talk to, no.

17 Q If you can't remember who you talked to, you don't
18 remember what you said, it goes hand-in-hand, doesn't it?

19 A That's not true. I might not remember now, but the day
20 that it was bagged on February 10, 2022, I remembered and
21 that's why the accurate detailed information is on the bag.

22 Q A bag you didn't fill out, correct?

23 A That's correct.

24 Q And information provided to someone you can't remember?

25 A Today I can't remember, no.

1 Q You're aware that that particular bag, that evidence
2 bag, was not booked until March 14, 2022, correct?

3 A I don't understand what you're saying.

4 Q Those pieces of evidence, when they were booked into
5 evidence, until March 14, 2022.

6 A Those particular pieces of evidence were collected on
7 February 10, 2022.

8 Q Sergeant Bukhenik, do you know the difference between
9 collecting a piece of evidence and booking it into
10 evidence, creating a booking label, creating an evidence
11 log, things of that nature; do you know the difference?

12 A I understand the difference, yes, but you claiming that
13 it wasn't booked into something doesn't mean that it wasn't
14 properly handled, in custody, and under our control.

15 Q Sir, I'm not claiming anything. You're testifying.
16 I'm asking questions. Was it booked into evidence on
17 February 10?

18 A If you show me a document, I can tell you what --

19 Q Sure.

20 A -- it might be suggesting.

21 Q By the way the evidence --

22 MR. JACKSON: May I have the actual piece of evidence?

23 THE CLERK: I'm sorry. Which one?

24 MR. JACKSON: The photo.

25 THE CLERK: Oh, I'm sorry.

1 MR. JACKSON: If I may have just a moment, Your Honor?

2 THE COURT: Okay.

3 Can we move on and come to back to this, Mr. Jackson?

4 MR. JACKSON: I think I just -- I think I've just
5 gotten the documents that the sergeant needs. There are
6 two documents here.

7 THE COURT: Did you show Mr. Brennan?

8 Q If you could take a look at those two documents and
9 tell me whether or not you recognize them?

10 A (Witness complies.)

11 Q I'm going to leave those up there with you. Does one
12 of those appear to be the log sheet for the crime lab?

13 A One is a chain of custody report from the crime lab of
14 all the evidence that was processed -- received, processed,
15 and returned. Yes.

16 Q And the other document?

17 A The other document is simply a receipt of evidence
18 being submitted on a certain day to the lab.

19 Q And both of those documents indicate that the first
20 time the evidence was submitted to the crime lab was March
21 14, 2022, correct?

22 MR. BRENNAN: Objection.

23 THE COURT: I'm going to allow that.

24 A I will have to take a look. It's going to be some
25 time, please.

1 Q When you look at the top -- well, let me ask you --
2 I'll ask it in a question form.

3 If you look through the log, it's in chronological
4 order, the chain of custody log, correct?

5 A By item I believe, but I didn't take a deep dive into
6 that. I'd have to take a look.

7 Q Right. Do you see any item especially focusing on item
8 712 or items 712, do you see any item being booked into the
9 crime lab before March 14, 2022?

10 A I'll take a look.

11 Q Sure. Did that refresh your recollection as to when
12 the items were booked at the crime lab?

13 A According to this document, yes, there were items
14 booked at the crime lab prior to March 14. In particular,
15 to answer your question in completeness here, in particular
16 that one item does indicate that the first time the lab
17 received it for processing was March 14.

18 Q So they were booked at the lab March 14, correct?

19 A The first time the lab received these items for
20 processing, according to this document, is March 14, yes.

21 Q And there's no indication on any document as to where
22 those items were before March 14?

23 A There is. We displayed the bag, me collecting them on
24 February 10, and they were in our possession at the Norfolk
25 District Attorney's Office.

1 Q Whose possession?

2 A The Norfolk District Attorney's Office.

3 Q Your possession, specifically?

4 A At one point, they were in my possession, then I turned
5 it over.

6 Q Right. After you turned it over on February 10, in
7 other words, the day that you claim to have found these
8 items, after February 10, they were not in your possession
9 anymore, were they? A No, once I turned them over, there's
10 not in my possession, no.

11 Q When you say turn them over, you're talking about
12 turning them over to someone who we don't know, correct, as
13 we sit here?

14 A Right now, I don't have a memory of who I turned it
15 over to, but it was a member of our homicide team.

16 Q So the next time, Sergeant Bukhenik, the next time
17 there's any documentation about those items is March 14,
18 nearly six weeks later -- five weeks later, correct?

19 A I don't know that to be to correct, no.

20 Q But you don't -- you can't point to any documentation.
21 You're looking at the logs. You can't point to any
22 documentation indicating the chain of custody of these
23 items between February 10, and March 14; is that right?

24 A This is simply a log from the lab.

25 Q Yes or no, can you --

1 MR. BRENNAN: Objection.

2 Q -- to any documentation --

3 THE COURT: Ask the question.

4 Q Can you point to any documentation indicating where
5 those items went, whose possession they were in, and what
6 circumstance between March -- February 10, 2022, and March
7 14, can you point to any document?

8 A I know that it was collected on February 10.

9 Q Right.

10 A It was documented; it was collected. It was at the
11 Norfolk District Attorney's Office before it was logged
12 into the lab for processing.

13 Q You keep answering the question that I'm not asking,
14 sir.

15 MR. BRENNAN: Objection.

16 THE COURT: Sustained. No comments, Mr. Jackson.

17 Q Sergeant Bukhenik, do you understand my question? I'm
18 asking, can you point to a single document for these jurors
19 as to where those items went in and whose possession they
20 remained, specifically, between February 10, 2022, when you
21 lost sight of them, and March 14, when the crime lab
22 received them?

23 MR. BRENNAN: Objection.

24 THE COURT: Sustained.

25 MR. JACKSON: May I approach?

1 THE COURT: Yes.

2 MR. JACKSON: No, no, I'm sorry.

3 THE COURT: Just for the evidence.

4 MR. JACKSON: Just for the evidence. False start.

5 Q As a supervisor, you're generally aware of the evidence
6 in this case, correct?

7 A It depends, but very generally in most cases, yes.

8 Q As a matter fact as the supervisor, one of your duties
9 would be to make sure that evidence is collected and
10 processed appropriately and properly, correct?

11 A That is a standard, yes.

12 Q You're also aware that all of the physical evidence
13 that was booked, eventually at the crime lab on March 14,
14 2022, was done so by Michael Proctor, correct?

15 A I'm not sure exactly who delivered it or who booked it
16 in, but if you have a document, I will reflect on it.

17 MR. JACKSON: May I approach, Your Honor?

18 THE COURT: Yes.

19 Q Take a look at that and tell me if that refreshes your
20 recollection.

21 A Yes, it does.

22 MR. JACKSON: May I approach?

23 THE COURT: Yes.

24 Q What is this document you just looked at?

1 A It's the receipt of evidence submission to the crime
2 lab.

3 Q And who submitted, based on that document, who
4 submitted all that evidence to the crime lab?

5 A Michael Proctor.

6 Q You're also aware that Michael Proctor eventually
7 submitted a total sum 46 or so pieces of taillight material
8 that was claimed to have been recovered at 34 Fairview on
9 January -- I'm sorry, since January 29, 2022, correct?

10 A I don't know the total pieces, but we didn't claim to
11 recover it there. We recovered it there.

12 Q You're testifying that they were recovered, but you
13 didn't recover all them, did you?

14 A I did not recover all of them, no.

15 Q As a matter fact, Michael Proctor, according to you,
16 recovered some of those items, correct?

17 A Some of those items were recovered by Michael Proctor,
18 yes.

19 Q And you're also aware that he submitted pieces of
20 taillight material that he indicated he recovered as late
21 as February 18, 2022, correct?

22 A I am aware that there was items recovered on February
23 18. I am not sure if it was him or someone else that
24 recovered it.

1 Q You indicated I think on direct examination yesterday
2 that as of February 3, and February 4, the weather had
3 broken, generally, correct? It was getting warmer?

4 A Yes, the weather was warmer. There were rainy days
5 following the 30 -- the 3rd I believe. The 4th, it was
6 raining when I picked up that piece of evidence, so, yeah,
7 the weather had warmed up.

8 Q So it was raining and somewhat storming on the 4th?

9 A There was precipitation when I recovered that item. I
10 mean, I don't know if it was storming. There was a low
11 pressure cell coming through, I have no idea.

12 Q Okay. But that's the same day that you were told that
13 Chief Berkowitz was driving by and saw the red piece?

14 A The day I picked up the single piece with Canton PD
15 present, it was raining.

16 Q So he would have been driving by, windows up, water on
17 the windows, in the rain, and saw the red piece?

18 MR. BRENNAN: Objection.

19 THE COURT: Sustained.

20 Q You indicated that on February 10, when you did your
21 final visit, made your final visit to 34 Fairview, you
22 indicated yesterday during testimony there was
23 quote/unquote very little snow still present, correct?

24 A That's correct.

25 MR. JACKSON: Your Honor, may I approach?

1 THE COURT: Yes.

2 Q Sergeant, that's a two-page document. Could you
3 familiarize yourself with those two pages, please, and let
4 me know when you're done?

5 A (Witness complies.) Okay.

6 Q Thank you. Sir, what do those two pages purport to
7 reflect? What are they pictures of, just generally, an
8 evidence bag of something else?

9 A The first one is an evidence bag with some --

10 Q Just tell me the date, you just so that we can cut to
11 the chase, the date of that evidence collection, according
12 to the bag.

13 A On the bag, the date 2/11/22.

14 Q Okay. And what's the sticker?

15 A On the sticker, there's another date. There's a
16 sticker March 9th of '22.

17 Q Okay. What's --

18 A There's also a date --

19 Q I'm just interested in the two pages, generally. I
20 need to mark them for evidence. What's the second page
21 look like?

22 A Second page is a large piece of red and black taillight
23 plastic cover, and it's identified by a lab number, I
24 believe.

25 Q Okay. Thank you. I'm sorry about that.

1 So there's one page is an evidence bag, the other page
2 purports to be the item that was in the evidence bag,
3 correct?

4 A I don't know that, no.

5 Q Okay.

6 A Just one's an evidence bag with information on it, and
7 then there's a photograph of a piece recovered. I don't
8 know --

9 MR. JACKSON: I'd like to have this marked and
10 introduced as next in order A and B.

11 THE COURT: Is there any objection from the
12 Commonwealth?

13 MR. BRENNAN: No objection.

14 THE COURT: Okay.

15 (Whereupon Exhibit No. 112A, Photograph, was marked as an
16 exhibit.)

17 (Whereupon Exhibit No. 112B, Photograph, was marked as an
18 exhibit.)

19 MR. JACKSON: Your Honor, request to publish.

20 Q Take a look at this item. Can you describe for jury
21 what they're looking at, please?

22 A This is an evidence bag. It's labeled with case
23 number, date collected, time, who collected it, description
24 of items enclosed, the location it was recovered, and the

1 victim's full name. It also has a to-scale ruler for the
2 photograph and some identifying marks from the laboratory.

3 Q Can you indicate for the jurors who was it that
4 collected this items according to the evidence bag?

5 A According to this evidence bag, it was collected by
6 Trooper Proctor.

7 Q And can you show the date or tell the jurors the date
8 that it indicates the item was collected, or items were
9 collected?

10 A I believe it says 2/11/22.

11 Q February 11. So that would be the day after you were
12 at the location, correct?

13 A It would be the day after, yes.

14 MR. JACKSON: Can we have the full screen, Mr. Wolk?

15 Q Do you see the designation at the bottom beneath the
16 measuring ruler?

17 A Yes, I do, yes.

18 Q Is there a case number or case designator starting with
19 22? A Yes, I believe, I'm not sure, but I believe that's
20 a LIMS number 22-02184.

21 Q And do you see an item number listed right next to that
22 case number?

23 A Yes, this indicates it's 7-15.

24 Q And there's another set of initials beneath that it
25 appears, correct?

1 A That's what -- I mean, there's letters. I don't know
2 if this is someone's initials. I don't know what it is.
3 I'm sorry.

4 Q Fair enough. This appears to be something that was
5 filled out by the crime lab, these black lettering and
6 numbering, correct?

7 A I would assume. I don't know for sure, though.

8 Q Okay. And obviously, there's a date down here 2/17/23,
9 a year later, correct?

10 A Yes.

11 Q And it says Canton at the bottom?

12 A Yes.

13 MR. JACKSON: If we can have the full screen, please?

14 Q Okay. You also indicated that there was a label up at
15 the top, correct?

16 A Yes.

17 Q All right. If we could go to the second page, it would
18 be page B of this.

19 A (Witness complies.)

20 Q Can you look at the -- first of all, look at the bottom
21 and tell me if the -- that number designator appears to be
22 the same as on the evidence as on the previous page?

23 A The LIMS or the item --

24 Q The number.

25 A The item number is 715.

1 Q Okay. And that comports with what we just saw in the
2 previous page, correct?

3 A That is the same number.

4 Q All right. This would be an exemplar, one of the items
5 in that evidence bag labeled 715, correct? There were
6 several items, but this is one of them; is that right?
7 That's how the crime lab keeps them separate?

8 A I believe so. I don't know their procedures. I
9 believe so. I know they use alphanumeric identifiers as --
10 I can't testify to their procedures why they do it, how
11 they do it, or the sequence in which, or the choice in
12 number or letters. I have no idea --

13 Q Okay.

14 A -- about any of that.

15 MR. JACKSON: If we can have the lights up, with the
16 Court's permission.

17 THE COURT: Okay.

18 MR. JACKSON: If you could leave this up? Can you
19 leave that up, Ms. Wolk.

20 Q All right. You can still see that on the screen,
21 correct?

22 A Yes, sir.

23 Q Okay. You went out to 34 Fairview on February 10, 24
24 hours before February 11, correct, to pick up a piece of --

1 I'm sorry -- to look for additional items of evidence,
2 correct?

3 A I collected I believe twenty pieces in total, six and
4 fourteen, the day prior, yes.

5 Q You see the size of this, according to the ruler,
6 generally?

7 A Yes.

8 Q How big is that, the widest part?

9 A At the widest part, it appears, if there's no optical
10 illusion with the ruler location, 6 inches.

11 Q Okay. That's -- 6 inches is the size of a dollar bill,
12 right?

13 A That's correct.

14 Q It also looks like it may be more than that from top to
15 bottom, 6 maybe 7 inches top to bottom? Could you give us
16 an estimate?

17 A Possibly a little bit more, yeah.

18 Q Okay. You didn't see this item February 10, when you
19 were there, correct?

20 A If I saw that item, I would have picked it up.

21 Q Right. It wasn't there, was it?

22 A That's not what I'm saying. I said if I saw it, I
23 would have picked it up.

24 Q But you didn't see it, did you?

25 A I did not see it, obviously, no.

1 Q According to the information that we just presented,
2 this item was found the next day by Trooper Michael
3 Proctor, correct? A Based on the information presented,
4 that's what it says, yes.

5 MR. JACKSON: Okay. May I approach?

6 THE COURT: Yes.

7 MR. JACKSON: We can take that down. May I approach
8 one more time?

9 THE COURT: Okay.

10 MR. JACKSON: Thank you.

11 Q This is a three-page document --

12 THE COURT: Did you show Mr. Brennan?

13 MR. BRENNAN: He did. He showed it to me earlier.

14 Thank you.

15 MR. JACKSON: I did.

16 Q Are you familiar with that document? That's a bad
17 question. Let me ask it a different way. Do you recognize
18 what's generally in those three pages?

19 A I've got to take a look. I must've missed your first
20 request.

21 Q Sure.

22 Sergeant, can you describe generally just very
23 generally so I can either mark it or not mark it, do you
24 recognize what's depicted on the first page, second page,
25 and the third page?

1 A The first page depicts an evidence bag from -- labeled
2 as date of collection 2/18/22. Second page is a red piece
3 of plastic, and third page is also a photograph of a longer
4 red piece of plastic with a little bit of black molding on
5 it.

6 MR. JACKSON: Your Honor, I would ask that that be
7 moved into evidence as A, B, and C.

8 THE COURT: Is there any objection?

9 MR. BRENNAN: No objection.

10 THE COURT: Okay.

11 (Whereupon Exhibit No. 113A, Photograph, was marked as an
12 exhibit.)

13 (Whereupon Exhibit No. 113B, Photograph, was marked as an
14 exhibit.)

15 (Whereupon Exhibit No. 113C, Photograph, was marked as an
16 exhibit.)

17 MR. JACKSON: May I publish, Your Honor?

18 THE COURT: Yes.

19 Q Sergeant, same couple of questions if you could. Do
20 you see a date of collection on this evidence envelope?

21 A Yes, this photograph indicates 2/18/22.

22 Q And collected by whom?

23 A Trooper Proctor.

1 MR. JACKSON: Full view, Mr. Wolk. Thank you, sir.

2 And if you could highlight the lower portion that appears
3 to be by the ruler.

4 Q Do you see the same, I think you called it a LIMS
5 number?

6 A LIMS, LIM.

7 Q Okay. The LIM number is the same number, the 22-02184,
8 correct?

9 A Yes.

10 Q And the item number of this one is handwritten as what?

11 A Seven-sixteen.

12 Q Okay. If we could go to the second page, please.

13 Do you see it, first of all, on the bottom, the same
14 item designator number?

15 A Yes, 716.

16 Q And what is depicted in this photograph?

17 A A red piece of plastic.

18 Q That would be a plastic -- a piece of plastic,
19 according to the item number, that would be contained in
20 that evidence envelope, one of the pieces at least?

21 A I would assume, yes.

22 Q Okay. Is that a similar 6 inch ruler that's being
23 photographed with that red piece?

24 A Yes, it is.

1 Q And how long at its longest point would you estimate
2 that piece of plastic to be?

3 A It's more than 6 inches, I mean, probably seven maybe,
4 maybe seven.

5 Q I know this is a little bit of a challenge, but how --
6 from top to bottom, what would you estimate the distance to
7 be at its longest points?

8 A Three, three and half inches I guess.

9 MR. JACKSON: If we could go to the next page, please,
10 the following page will be C.

11 Q Do you see the same designator on the bottom right?

12 A Yes, I do.

13 Q That's 716; is that right?

14 A Yes, sir.

15 Q It appears to be out of the same evidence envelope; is
16 that right?

17 A That's what's suggested, yes.

18 Q And how long would you estimate this item to be?

19 A Seven and half, eight inches.

20 Q And maybe, what, three inches tall, four?

21 A Yeah, three. Three.

22 Q Okay.

23 MR. JACKSON: We can have the lights up again with the
24 Court's permission.

25 THE COURT: Okay.

1 Q Again, the last time you were out at the location with
2 very little snow on the ground, you collected certain items
3 of evidence on February 10, correct?

4 A February 10, was the last time I collected. I said
5 there was still snow on the ground maybe in piles where it
6 was excavated. There was very little, but there was still
7 snow on the ground.

8 Q You indicated that you, obviously, looked around the
9 area. You talked about the general area, and I think you
10 used the word general vicinity, right?

11 A Yes.

12 Q When you collected your items?

13 A Yes.

14 Q You didn't see this, and you didn't see the one before
15 it either, did you?

16 A If I saw any of these items, they would have been
17 collected. We did not excavate anything. We simply
18 allowed the thawing and natural recession of the snow to
19 reveal additional items.

20 Q When you were there on the 3rd, February 3, there was a
21 lot of snow on the ground, correct?

22 A Yes, there was a lot of snow on the ground, yes.

23 Q By February 4, that snow was dissipating some, correct?

24 A It was, yes.

25 Q And you were excavating through that as well?

1 A On the 4th?

2 Q On the 4th.

3 A No, we did not excavate on the 4th. The item revealed
4 itself, and I collected it.

5 Q That was it. Okay. Fair enough. Then on the 10th,
6 you didn't need to do more anymore excavating because there
7 was quote/unquote in your words very little snow, very
8 little, correct?

9 A Those were my words. Compared to the first day, there
10 was very little snow on the ground, yes.

11 Q And in fact, you did not see any of the items that were
12 collected or claimed to have been collected at 34 Fairview
13 by Michael Proctor on February 11, the day after you were
14 there, correct, you did not see that item?

15 A Did not see that item, no.

16 Q And did not see any of the items that you've seen that
17 were claimed to have been collected by Michael Proctor on
18 February 18, a week later, correct?

19 A Those items were not observed by me or else I would
20 have collected them.

21 MR. JACKSON: You can take this down.

22 Q I want to change gears for a second, sir, if it's okay
23 with you, and switch to the Waterfall, a bar and grill.

24 You indicated that on direct examination you reviewed
25 video evidence that you had information that John O'Keefe

1 and Karen Read arrived at the Waterfall after leaving CF
2 McCarthy's, correct?

3 A That is correct.

4 Q I'd like to ask you about who your investigation
5 revealed was there at the Waterfall when they arrived.

6 What about Brian Higgins?

7 A Yes, the investigation revealed Brian Higgins was at
8 the Waterfall at their arrival.

9 Q And you learned that John O'Keefe and Karen Read
10 arrived at the bar altogether, not separately, correct?

11 A That is correct.

12 Q About what time did, according to your investigation,
13 Mr. O'Keefe and Ms. Read arrive at the Waterfall?

14 A I believe it was 11:03, but I could be wrong. I could
15 be wrong.

16 Q When they walked in, you reviewed the video, correct?

17 A Yes, we played it yesterday, yes.

18 Q When they walked in, Brian Higgins was already situated
19 in the Waterfall standing or sitting in a sort of a high
20 top bar table, correct?

21 A Brian Higgins was present. I don't know his exact
22 location. The video would depict it.

23 Q You did learn that Brian Higgins on January 29, 2022,
24 January 28, early into January 29, 2022, had a, what could

1 be generally referred to, as a romantic interest in Ms.
2 Read?

3 MR. BRENNAN: Objection.

4 THE COURT: Sustained.

5 Q Did you receive certain text messages from Brian
6 Higgins during the course of your investigation?

7 A I received extraction of his text messages. I did not
8 receive any text messages.

9 Q Did you actually receive an extraction from his phone,
10 or was it simply text messages that he supplied to you on
11 his own?

12 A It was extraction of text messages on a CD and also
13 printed out the same document.

14 Q Did you perform that extraction, or was that extraction
15 performed at your request by Massachusetts State Police on
16 this phone?

17 A It was not performed by me, and it was not performed at
18 my request.

19 Q Okay. So in fact, when you met with Brian Higgins, he
20 simply provided you something that he said had been
21 extracted from his phone, correct?

22 MR. BRENNAN: Objection.

23 THE COURT: Sustained.

24 Q Did he provide you something?

25 A Yes.

1 Q Did Brian Higgins indicate that he had taken those off
2 of his phone?

3 MR. BRENNAN: Objection.

4 THE COURT: Sustained.

5 Q What was your understanding about what the items were,
6 the pages of text messages that you received, what was your
7 understanding about where they came from?

8 A From his device and his communication with the
9 defendant and Mr. John O'Keefe.

10 Q But you did not have a forensic extraction performed,
11 correct?

12 A That's correct.

13 Q And Brian Higgins never gave you his phone to perform a
14 forensic extraction, correct?

15 A That's correct.

16 Q So the items that you received were directly from him
17 and him alone; is that right?

18 A He handed me the items. I don't know who else was
19 involved. You said him alone. He handed me the items.

20 Q That's what I mean. You reviewed those text messages
21 back and forth, correct?

22 A It's been sometime, but, yes, I had.

23 Q And those reported to be, I think you already said,
24 there was reported to be two strings -- I'm going to call

1 them strings of texts, some string text message between
2 Brian Higgins and John O'Keefe, correct?

3 A Yes.

4 Q And some string text messages between Brian Higgins and
5 Karen Read, correct?

6 A Yes.

7 Q Would you describe the text messages between Brian
8 Higgins and Karen Read that he presented to you as
9 flirtatious in nature?

10 MR. BRENNAN: Objection.

11 THE COURT: I'll allow that.

12 A Without having recently reviewed them in detail, I
13 don't want to label it something without having complete
14 understanding of the contents. I really -- I'm not
15 comfortable labeling -- putting a label on something.

16 Q Well, how why would you describe them? I mean, was it
17 -- were these business texts?

18 A No, these were, you know, friendly communications.
19 Again, I don't want to put a label on it. They were
20 communications between acquaintances or people that know
21 each other. There was text message communication. As far
22 as flirtatious, I would have to take a look at the content
23 of it for certain terms that would support that label.

24 Q Well, there was, do you remember a text message
25 exchange about a kiss that we shared?

1 MR. BRENNAN: Objection.

2 THE COURT: Sustained.

3 Q Do you remember any text message between the two of
4 them that suggested a romantic interest that either one of
5 them may have had based on the text messages?

6 MR. BRENNAN: I'm objecting.

7 THE COURT: Sustained.

8 MR. JACKSON: May we approach, Your Honor?

9 THE COURT: Yes.

10 (Sidebar commences:

11 MR. JACKSON: The nature of the objection. I got to
12 see first.

13 MR. BRENNAN: It's hearsay. It's irrelevant. If they
14 want to bring in Brian Higgins' statements, they should
15 bring in Brian. I mean, they're Brian Higgins' statements,
16 they should bring in Brian Higgins. He's asking for
17 characterizations, state of mind of witnesses that this
18 witness is not qualified to give. And so he's suggesting
19 interpretations of text messages and then he's citing parts
20 of the text message. They're inadmissible hearsay, and they
21 shouldn't be characterized by somebody who's not a party to
22 them. The parties involved, if they want to characterize
23 them, should testify about them.

24 MR. JACKSON: They're not hearsay because they're not
25 offered for the truth of the matter asserted. I couldn't

1 care less about the truth of whether or not there was
2 flirtation or romantic interest. I'm interested in the
3 state of mind of the listener. He's the investigator who
4 was behind this or at least now he's purporting to be the
5 investigator who's behind this along with his partner
6 Michael Proctor. They had information that there was a
7 romantic interest by Brian Higgins toward Karen Read that
8 on the night in question, just minutes, not hours, minutes
9 before John O'Keefe was seen alive last, Brian Higgins
10 texted, what could be described, easily described, as a
11 frustrated text or passive-aggressive text of, "Um, well,"
12 meaning a natural inference would be, what about me? Am I
13 chopped liver. You walk in with your boyfriend. This goes
14 directly to *Bowden*. It was a failure to investigate a
15 motive on his part.

16 THE COURT: I understand all that.

17 MR. JACKSON: Okay.

18 THE COURT: No, no, my concern is that he says I
19 haven't looked at these in a very long time. So you're
20 putting in the context of text messages that he was going
21 to say, I don't know. I can't say that. So it's -- so
22 that's not competent evidence to be before the jury.

23 MR. JACKSON: That's fair.

24 THE COURT: I don't want to give them an instruction
25 that no answer means there's no evidence. I don't want to

1 highlight that during cross-examination, if I don't have
2 to, but it's getting pretty close, Mr. Jackson.

3 So he needs to see them before you ask him any
4 questions about this.

5 MR. JACKSON: If we could -- I've got the texts. I was
6 trying to avoid that because this was going so slow, I was
7 trying to move things along with leading questions, but I'm
8 happy to do it that way. I can have him review the text
9 messages and then come back and talk about them. It's
10 going to take a minute. You see --

11 THE COURT: So maybe he can do that during the break.

12 MR. BRENNAN: He can, but the other concern is the
13 defense - the problem they have is they're trying to draw
14 an inference regarding state of mind of parties to make
15 these relevant at all. There was no evidence that Brian
16 Higgins was in any way involved in touching, hitting, or
17 killing John O'Keefe. So bringing in a text message under
18 the purported guise that it's this witness's state of mind,
19 and then try to infer or imply or even come out and say
20 that this is what this means to the jury creates the
21 illusion that there's conflict between Brian Higgins and
22 the defendant. And that is not a fair inference because,
23 number one, they don't have the text messages. They don't
24 have the authors. They don't have the state of mind.

1 And what the defense is going to try to do is they're
2 going to try to create their own predicate. They're going
3 to suggest because of what is written in texts, really has
4 nothing to do with this witness, he's just the vehicle,
5 what is written in these text messages provides someone
6 else with a motive to do something, which there's no
7 evidence of. And so it is misleading to the jury. It's
8 going to be confusion. It's going to be prejudicial. They
9 should call in the witness they want if they have evidence
10 that there was some type of jealousy or motive. They should
11 call in the witness they want if there's any evidence that
12 a person committed an act. They don't have that. They
13 don't have that evidence. This is a tricky way of doing it
14 which is going to use this witness, who has something to do
15 with it, to create a storyline for this jury through the
16 questioning. It's improper. It's unfair. And so, if they
17 want Brian Higgins, they should call Brian Higgins.

18 THE COURT: Are you planning on calling Brian Higgins?

19 MR. JACKSON: No, we don't need to.

20 THE COURT: All right. So --

21 MR. JACKSON: I mean, that is a question that is
22 still --

23 THE COURT: All right. So I would like --

24 MR. JACKSON: -- an open question, but at this point,
25 I don't need to.

1 THE COURT: I would like a copy of the text messages
2 that you're talking about.

3 MR. JACKSON: Sure.

4 THE COURT: Of course, I remember them from last year,
5 and I probably have testimony on the computer from a
6 transcript, but I'd like them myself to review before this
7 witness is questioned on it.

8 MR. BRENNAN: This is directly --

9 THE COURT: The *Bowden* argument is a fair one. If it
10 can be raised through this witness, it's something I will
11 allow the defense to pursue, but if the witness -- if it's
12 not adopted by this witness, it may well be what you need
13 to bring Higgins in and then point out that --

14 MR. JACKSON: Sure.

15 THE COURT: -- they didn't investigate it. So I need
16 to see this. It's awfully hard to make an evidentiary
17 ruling specifically without seeing those.

18 MR. JACKSON: Sure.

19 THE COURT: So when we take the recess, I want a copy
20 of what exactly. And Mr. Brennan needs to know which ones
21 you're trying to put in.

22 MR. JACKSON: Of course. Of course. What time does the
23 Court want to take the break?

24 THE COURT: Can you move on and go to quarter of 11, 11
25 o'clock?

1 MR. JACKSON: Sure.

2 THE COURT: If you can't, we can take it now.

3 (Counsel confer.)

4 MR. JACKSON: I didn't realize that. There's a report
5 from -- that he authored that summarizes the text messages
6 as flirtatious.

7 THE COURT: All right.

8 MR. JACKSON: This is so much easier. I'll just show
9 him this.

10 THE COURT: That would be helpful, too. But we're
11 still going to do it after a break.

12 MR. BRENNAN: It still doesn't make it admissible
13 because it's in a report, and secondly, there's a strong
14 line of demarcation between *Bowden* and third-party culprit.

15 THE COURT: Right. And I know the defense is trying to
16 develop both so we'll see where it goes.

17 MR. BRENNAN: I understand *Bowden*, but third-party
18 culprit, I see an absence of evidence at this point.

19 MR. JACKSON: We do not have to prove --

20 THE COURT: I don't see straight third-party culprit,
21 either, but I do see -- I'll allow, based on what I see,
22 depending on what I see I should say, I'll allow to pursue
23 *Bowden*. It depends, as we all know, on the answer of the
24 witness.

25 MR. BRENNAN: Understood.

1 THE COURT: Whether they get there.

2 MR. BRENNAN: Understood.

3 THE COURT: So get me those documents to read at the
4 break. MR. JACKSON: I like to present him, since I've
5 got a report, I'd like to present him with his report to
6 see if this refreshes his recollection about the tone and
7 nature of the text messages.

8 THE COURT: I'd rather you wait because what is it, a
9 five page report, he's going to read every word.

10 MS. LITTLE: We can direct him to specific --

11 THE COURT: Let's do it my way. Okay. You said you
12 could move on. If you can't, we can take a break now.

13 MR. JACKSON: Can we take the break now?

14 THE COURT: Yes.

15 MR. JACKSON: Let's do that. I'd rather keep the flow.

16 THE COURT: That's fine. So we'll take a half an hour
17 break.

18 MR. JACKSON: Great. Thank you, Judge.
19 end of sidebar.)

20 THE COURT: So, jurors, this is taking us longer than I
21 want to make you wait here. So we'll take our morning
22 break now. We'll take a half an hour break.

23 (Jury out.)

24 THE COURT: I need you to stay for just a second. So
25 how are we going to get -- I know you're very careful about

1 not talking with the witnesses while they're on the stand.
2 So you're to give Mr. Brennan copies of everything that we
3 talked about, and somebody's got to give them to Sergeant
4 Bukhenik to review.

5 MR. JACKSON: I have no problem with Mr. Brennan
6 providing report number 11 and the text messages.

7 THE COURT: And I need copies as well.

8 MR. JACKSON: Okay.

9 THE COURT: So if you can get them to Mr. McDermott so
10 I can have them, that would be great.

11 MS. LITTLE: Can we email, would that be okay just to
12 save time?

13 THE CLERK: I'm sorry?

14 THE COURT: No, that won't save time, actually. So,
15 no, Mr. McDermott will make copies. Thanks, Jim.

16 (Counsel confer.)

17 THE COURT: All right. So we'll see you back here in
18 half an hour. If you need me before then, let me know.

19 (Court in recess at 10:29 a.m.)

20

21

22

23 (Court in session at 11:20 a.m.)

24 (Defendant is present with counsel.)

25 (Jury in.)

1 THE COURT: Jurors, we appreciate the long break. We
2 did it in effort to make sure things go a little bit more
3 smoothly.

4 All right. Mr. Jackson, whenever you're ready.

5 MR. JACKSON: Thank you, Your Honor. May I approach?

6 THE COURT: Please.

7 Q (By Mr. Jackson) Sergeant, I've handed you a document.
8 In addition to what's been marked as evidence item 111,
9 there's a document that's heavily redacted. Do you
10 recognize -- do you see that document?

11 A I do.

12 Q Do you see a word on that document?

13 A Yes, I do.

14 Q Does that appear to be a redacted form of the document
15 that is the same document or the same page or a copy of
16 that page that you saw this morning among those notes?

17 A Yes, it is.

18 Q Okay. I'd like to have that marked as next in order,
19 the redacted document, with the Court's permission?

20 THE COURT: Okay.

21 MR. JACKSON: And with the Court's permission --

22 THE COURT: Hold on.

23 MR. JACKSON: Sorry.

24 (Whereupon Exhibit No. 114, was marked as an exhibit.)
25

1 MR. JACKSON: Your Honor, may I, with the Court's
2 permission, put a side-by-side of the single word that we
3 discussed at sidebar from evidence -- item 111 and what's
4 been marked as 114?

5 THE COURT: Is there an objection?

6 MR. BRENNAN: There is.

7 THE COURT: Yes. Not at this time, Mr. Jackson.

8 Q In your opinion having seen those two words next to
9 each other, do they appear to be the same or similar
10 handwriting?

11 A In my opinion they appear very similar, yes.

12 Q Okay. Thank you.

13 MR. JACKSON: May I inquire with counsel for just a
14 second?

15 (Counsel confer.)

16 MR. JACKSON: May I approach one more time, Your Honor?

17 THE COURT: Yes.

18 MR. JACKSON: May I approach?

19 THE COURT: Yes. Can I see? Can I see what you have?

20 MR. JACKSON: Of course.

21 THE COURT: Thank you.

22 Q Sergeant, could you just flip through that briefly and
23 tell me if you generally recognize what that document --

24 A Absolutely.

25 Q -- is?

1 A I do.

2 Q Thank you, Sergeant. What is that document, generally?

3 A Generally, it appears to be screen captures of text
4 message conversation.

5 Q Is that the document that you earlier referred to as
6 having received from Brian Higgins?

7 A It's a printout of the document, yes.

8 Q You saw something in electronic format I take it?

9 A Yes.

10 Q And you reviewed it on a computer?

11 A Yes.

12 Q Did you receive the electronic file on a thumb drive or
13 a CD or something like that?

14 A I did.

15 Q Okay. And this appears to be a true and accurate
16 representation of that electronic copy that you received
17 from Brian Higgins?

18 A To the best of my understanding, yes.

19 Q And is that document reflective of the text messages
20 that Mr. Higgins indicated to you or between the strings, I
21 used that word, between Brian Higgins and Karen Read?

22 A This is what was provided to the best of my
23 understanding and now has been printed out.

1 MR. JACKSON: Okay. With the Court's permission, I'd
2 like to ask the witness to read the text messages that he
3 was provided by Brian Higgins.

4 THE COURT: So we're going to mark this for
5 identification --

6 MR. JACKSON: For identification only.
7 (Whereupon Exhibit EE, Text Messages, was marked for
8 identification.)

9 THE COURT: And you're certainly not asking him to read
10 this whole document?

11 MR. JACKSON: I expect to.

12 THE COURT: All right. I'll see counsel at sidebar.
13 (Sidebar commences:

14 THE COURT: All right. Make an offer proof, Mr.
15 Jackson.

16 MR. JACKSON: Sure. I expected to ask this witness
17 whether or not the text messages reflect a certain tone and
18 tenor in his mind, a flirtation of romance of interest by
19 Brian Higgins and Karen Read. It was suggested to me by the
20 Commonwealth that if I go there, which I think I'm
21 absolutely entitled to go there, that the Commonwealth may
22 intend to seek the admission of all these to have them
23 read. I want as a prophylactic matter, I want to have them
24 read by my side, by my cross-examination. I don't want it
25 to appear to the jurors that I'm hiding anything. I'm not

1 looking to pick and choose or cherry pick. So these were
2 read in at the last trial.

3 THE COURT: The whole --

4 MR. JACKSON: The whole thing was read in at the last
5 trial by I think it was Trooper Guarino.

6 MS. LAUGHLIN: Brian Higgins testified to those at the
7 last trial.

8 MR. JACKSON: Okay. Yeah, it was Brian Higgins.

9 THE COURT: All right. So the concern, even if the two
10 of you are in agreement with this, the concern I have is
11 that there's nobody here to say they're authentic, right,
12 that these are in fact what -- we need Brian Higgins or
13 your client to say these are, in fact, from my phone
14 number. I sent these.

15 It's a gatekeeper function, and I have to instruct the
16 jury on that.

17 MR. JACKSON: Your Honor, if --

18 THE COURT: Hold on. So at this point, I'm not letting
19 in these 112. We need a little bit more, Mr. Jackson, on
20 that. All right. I'm happy to allow you to pursue, as you
21 stated earlier, your *Bowden* defense on he was in receipt of
22 information and then he didn't then act on it, right?

23 MR. JACKSON: Right.

24 THE COURT: The trouble that I have with your question
25 is when you say things like, "obviously flirtatious." It's

1 a subjective term, and you've got a difficult witness who
2 isn't going to give you that. So if you don't get that,
3 it's not fair for the jury to hear it.

4 MR. JACKSON: Understood.

5 THE COURT: So you can now narrow this. If there are
6 certain messages that you want to ask him about more, we'll
7 do that. You're in agreement with this all going in?

8 MR. BRENNAN: No. Well, if any is coming in, I want
9 everything in. I'm objecting to it because it's not been
10 authenticated. They should either call Mr. Higgins or
11 their client or their client can produce a stipulation that
12 these are authentic, but the Court has to have some
13 preliminary threshold finding that these are authenticated,
14 and we don't have any. I don't think any of them should
15 come in. But if the Court is going to limit it in through
16 *Bowden*, then all of these should come in because they all
17 reflect the decision-making process he made in this case.

18 And so from my perspective, they're going to take
19 select pieces out of context, I'm not saying
20 deliberately, but it will be out of context, and we
21 should have this entire document in, and I'll use it
22 thoroughly on redirect examination. It still has the
23 authentication problem. That's why I objected
24 inarticulately saying somebody should be in to talk about
25 these, but if it's going to come in for *Bowden*, with a

1 limited instruction, whatever they don't go into, I intend
2 to have Trooper Bukhenik read.

3 MR. JACKSON: Okay. So I think I can narrow this.
4 Number one, just to address one issue that the Court raised
5 and Mr. Brennan has just raised. The authentication of
6 these is of note in the moment because we're not suggesting
7 that they're true. We're just suggesting that they had an
8 impact or should have had an impact on this officer's
9 investigation. So that's number one.

10 THE COURT: That's why I'm letting you get into certain
11 ones.

12 MR. JACKSON: Number two, I don't even need to get into
13 certain ones. And I won't. The only reason I was going to
14 read all of these is because I don't want the jurors left
15 with the impression I'm hiding anything. So what I don't
16 want is for me to say, did you receive generally
17 flirtatious texts or texts that were romantic or even
18 sexual in nature between Brian Higgins and Karen Read, and
19 then the Commonwealth get back up and say, well, let's read
20 some of those that Mr. Jackson didn't read to you. I will
21 not put any of them in, based on the Court's ruling or the
22 Court's suggestion, I simply will ask him about his report,
23 and his report does suggest that they're generally --
24 they're not professional. They're not talking about
25 finance. These are romantic --

1 THE COURT: So I've read the report and you can
2 certainly question this witness on the report.

3 MR. JACKSON: That's fine.

4 THE COURT: You can put in certain -- you can try to
5 put in. Again, it's what he answers, right? Some of these
6 are opening the door with *Bowden*. You know it's case law
7 that the Commonwealth -- it's a double-edged sword and
8 under case law, right, under *Santiago* that once you put in
9 *Bowden*, the Commonwealth gets to have him explain why they
10 didn't pursue this. All of that is fair game. I don't
11 want this witness to read through - I don't know, how many
12 are here?

13 MR. JACKSON: The only one that I want to get in is
14 that one right there. "Um, well," which I mentioned in my
15 opening statement, and that's the only text I will ask him
16 about unless -- I don't want to get. I'm not suggesting --
17 I'm going to use a word here, I don't want to get ambushed
18 or sandbagged or whatever the word is.

19 MR. BRENNAN: Whatever the word is that's what I will
20 do.

21 MR. JACKSON: I don't --

22 MR. BRENNAN: If they're going to take one -- if
23 they're going to take one last one to try to have him
24 characterize, which I think is improper because it's not
25 his opinion, then they should see the entire context

1 because then it will explain why he did not pursue Brian
2 Higgins as a suspect. Because when he read all of these,
3 plus all of the other evidence that he evaluated in the
4 case, he came to the conclusion that he should not have
5 gone any further investigating Brian Higgins. So to
6 characterize it, even characterizing it, opens the door to
7 these texts coming in because he has a right to fully
8 explain what he did and what he didn't do. *Bowden* is a
9 different proposition, but if they venture down with
10 *Bowden*, they shouldn't be able to selectively pick one or
11 two. This witness should fully explain what he did and why
12 he didn't do it.

13 MR. JACKSON: And if to that point, and I take Mr.
14 Brennan at his word, if I get into anything suggestive of
15 what these texts consist of, and he's going to read all of
16 them, then I intend to read all of them first.

17 THE COURT: Did we really have Trooper Guarino do all
18 of this in the last trial?

19 MR. JACKSON: Brian Higgins did them all.

20 MS. LAUGHLIN: No. Brian Higgins testified and
21 authenticated these communications. If the defense intends
22 to attribute -- and the response was made by their client
23 who had requested a colloquy with the defendant or a
24 stipulation that the defense agrees that those text

1 messages were received by the defendant and that those were
2 her authentic communications.

3 MR. JACKSON: That would be attendant to trying to
4 present these for the truth of the matter asserted. It
5 doesn't matter if they're authentic or not. What matters
6 is that he received them and he thought they were
7 authentic.

8 THE COURT: But the jury has to determine first.

9 MR. JACKSON: No.

10 THE COURT: Yes, the jury has to be instructed.

11 MR. JACKSON: I realize that. They don't have to be
12 instructed on this issue that these are authentic. That is
13 absolutely not part of a *Bowden* defense that includes him
14 being under his impression that these were authenticate at
15 the time and a failure to follow-up on a natural suspect or
16 another lead. That's what this is. It doesn't matter if
17 these were just completely made up and created out of whole
18 cloth by Brian Higgins, and Karen Read never received them.
19 It doesn't matter. That's not what I'm suggesting, but it
20 wouldn't matter because the authentication of these is of
21 no legal moment. All that matters is that this detective
22 received it and did nothing in furtherance of that.

23 THE COURT: Except for the jury to first even get to
24 that, the jury has to be told that before they can even
25 consider any electronic communication, and I will give an

1 instruction that it goes to *Bowden* and not to the truth,
2 but still, before they can consider any electronic
3 communication, they must first find that it's more likely
4 true than not that the person who authored, sent, created,
5 or transmitted was in fact the defendant or Brian Higgins.

6 They further instruct, that if you do not find it is
7 more likely true than not that the defendant was the person
8 who authored or created or transmitted the communication,
9 then you may not considered that electronic communication
10 in deciding this case. They have to be told that first in
11 order for me to get it to them, we need more than just
12 this.

13 So you got a report that you can use at this point.
14 Later, you can put all of this maybe in. You can certainly
15 put it in through Brian Higgins, if he testifies, or your
16 client, but you can put in what you're looking for in
17 *Bowden*, you have police reports, certainly.

18 MR. JACKSON: Agreed. Agreed. What I don't want is
19 what's good for the goose is good for the gander. Then the
20 Commonwealth can't turn around and start reading this.
21 That's what I want to obviate. It is going to be patently
22 unfair if I do what the Court indicates, which is what I
23 want to do, and then the Court says, "Oh, he just opened
24 the door, Mr. Jackson, he gets to read all these text
25 messages."

1 THE COURT: Do you want to get beyond what's in
2 Bukhenik's report?

3 MR. BRENNAN: Yes, because it's going to create an
4 impression characterizing what's in here, and I don't think
5 it's an accurate impression, and so leading the jury to
6 speculate on the nature and the depth and the intensity of
7 the relationship, which they'll then argue by inference in
8 the closing a motive to kill, which is not reflected in
9 these text messages, then that would be unfair, and I won't
10 be able to counter it. If they're going to get into *Bowden*
11 and his state of mind, he's then entitled to explain it --

12 THE COURT: His state of mind regarding these text
13 messages or regarding the conversation he had with Higgins?

14 MR. BRENNAN: No. Regarding not only these text
15 messages, but his evaluation of the entire case. Once they
16 open the door to *Bowden*, he can explain why didn't I go in
17 this direction, and he can evaluate any part of the case,
18 including these text messages, because it fully explains.
19 They're trying to present Mr. Higgins as a threat or a
20 person who caused these injuries. Any of these police
21 officers thought that to be credible should have pursued
22 it. But if he didn't think it was credible, based on his
23 investigation separately and based on the communications,
24 he gets to explain that to the jury. That's the dangers of
25 *Bowden* once you open the door.

1 And so by trying to characterize this and create an
2 impression, we believe it's not going to be an accurate
3 impression. And so in order for the jury to understand the
4 predicate, the actual impression, they're going to need to
5 see.

6 THE COURT: So I'm having difficulty with -- you're
7 sort of having contradictory arguments, right? If it's
8 coming in -- I'm going to ask you to stop nodding, Mr.
9 Alessi.

10 MR. ALESSI: Your Honor, let me make two comments,
11 please. First of all --

12 THE COURT: No --

13 MR. ALESSI: -- I have a bad neck --

14 THE COURT: Hold on one second.

15 MR. ALESSI: -- Your Honor.

16 THE COURT: Okay.

17 MR. ALESSI: (C) [REDACTED]

18 [REDACTED]

19 THE COURT: Okay. Mr. Alessi, I'm going to ask you to
20 just hold on. I have to hear from Mr. Jackson. We're ten
21 minutes now into a sidebar where the jury has already been
22 out for 40 minutes. So this is Mr. Jackson and Mr.
23 Brennan. We know more Ms. McLaughlin --

1 MR. ALESSI: That's what I was going to comment on,
2 Your Honor. Is if you let two people argue, we should
3 also.

4 THE COURT: So the problem I have is the authentication
5 argument, and then also saying if I let it in, it all comes
6 in. So I'm not going to give you both. I'm not going to
7 have a colloquy with the defendant as to whether.

8 MR. ALESSI: Okay.

9 THE COURT: But I am going to give the instruction
10 about authentication, and I'm going to give just that
11 they're not to use these for the truth. It only goes to
12 the knowledge of this police officer.

13 MR. BRENNAN: I'll withdraw my request for
14 authentication, and I'll rely on using those in response to
15 a *Bowden* --

16 THE COURT: All right. So that was the main issue that
17 I had was the contrast between the two arguments.

18 MR. BRENNAN: Understood.

19 THE COURT: All right. So if he's going to read them,
20 do you have them up on the -- do you have them to produce
21 on the screen so the jurors --

22 MR. JACKSON: No, I wasn't --

23 THE COURT: -- are not?

24 MR. JACKSON: I wasn't going to produce them.

1 MR. BRENNAN: We weren't expecting this. We tried to
2 produce these to help. We could put something in, but we
3 haven't even contemplated this.

4 MR. JACKSON: And we don't need to. He can read them.
5 These are jurors who can take evidence anyway they want to.
6 They don't have to see them.

7 MR. BRENNAN: So we can try to get them ready, but
8 they're just not ready now.

9 THE COURT: You won't get to your redirect for a while.

10 MR. BRENNAN: In order to assist the defense, we would
11 help, but I just don't have them available right now. --

12 THE COURT: All right. So I'm going to let this into
13 evidence. I'll do it in front of the jury. I'm going to
14 give them -- are you going right into this?

15 MR. JACKSON: Yes.

16 THE COURT: I'm going to give them the digital evidence
17 instruction authentication that I have to give as they are
18 gatekeeper function first, and then I'll give an
19 instruction that they're not to use this for anything for
20 the truth of the matter. MR. JACKSON: Okay.

21 THE COURT: This is why I said let me know if you need
22 anything beforehand, but, all right, we'll go back and do
23 this now.

24 end of sidebar.)

1 THE COURT: All right. So, jurors, we're really trying
2 to be as expeditious as we can be. So there is a big stack
3 of messages here that are going to be marked as the next
4 exhibit.

5 And I have two instructions for you folks. First is,
6 as I told you before, before you consider any electronic
7 communication in your deliberations, you must first find
8 that it is more likely true than not that the person who
9 authored or sent or created or transmitted the
10 communication was in fact, here, the defendant or Brian
11 Higgins. If you do not find that it is more likely true
12 than not that Ms. Read was the person who authored or
13 created or transmitted the electronic communication, or
14 Brian Higgins was the person who authored or created or
15 transmitted the communication, then you may not consider
16 that electronic communication at all in deciding your case.

17 Now, if you do, if it gets that and you do find that
18 that burden has been met, you're not -- these messages are
19 not being offered to show the truth of the statement.
20 They're simply to show that this information was in fact
21 provided to the Mass. State Police for their investigation.

22 Those are the instructions.

23 All right. With that, Mr. Jackson, go right ahead.

24 MR. JACKSON: Thank you, Your Honor. I appreciate
25 that.

1 THE COURT: Yes, I'm going to let the witness have that
2 back. Oh, he's got. Chrissy, I'll take them. The one for
3 ID will now be the exhibit and I'll take the other one.

4 THE COURT REPORTER: Give me one second, Mr. Jackson.

5 MR. JACKSON: Of course.

6 THE COURT: Thank you.

7 (Whereupon Exhibit No. 115, Text Messages, was marked as an
8 exhibit.)

9 Q Sergeant Bukhenik, do you have the document in front of
10 you that's been marked as Exhibit 115?

11 A I do.

12 Q If you could, starting at the beginning, do those
13 purport to be text messages between Brian Higgins and Karen
14 Read?

15 A Yes, they are.

16 Q Does that printout accurately reflect what you received
17 in electronic form from Brian Higgins during your
18 interview?

19 A Yes.

20 Q If you can start at the beginning and read the text
21 string indicating the date of the text, if it's dated, who
22 it's from, who it's to and the content?

23 A Yes, sir.

24 The text messages begin Wednesday, January 12, at 8:27
25 p.m. Incoming text message to Brian Higgins's phone from

1 Karen Read. "Hey, Brian. It's the weedwhacker." The
2 response is a question mark followed by a picture of a six
3 pack of Smirnoff Ice Screwdriver in it appears to be a
4 package store cooler, followed by, "Yo," Y-O response, and
5 that is it for January 12, Wednesday. Do you want me to
6 continue, sir?

7 Q Yes.

8 MR. JACKSON: May I have just a moment, Your Honor?

9 THE COURT: Okay.

10 Q Going back to the Smirnoff container, that was from
11 whom and to whom, the picture of the Smirnoff?

12 A It appears it was from Brian Higgins to Karen Read.

13 Q Okay. If you could make sure to delineate from whom and
14 to whom each text is --

15 A Every time.

16 Q Okay. Thank you.

17 A Okay.

18 Q Yes, and go ahead and proceed.

19 A Thursday, January 13, 9:24 a.m. from Karen Read to
20 Brian Higgins. "Did you try those Smirnoff?" There is a
21 "ha-ha" acknowledgment in response to that text message by
22 Brian Higgins.

23 The next page is the same bubble but continuing on the
24 next page, "I will repeat. Did you try those Smirnoff
25 screwdrivers," question mark, I stopped at the Hilly for

1 one last night." A bit emoji showing teeth. That is sent
2 from Karen Read to Brian Higgins.

3 Q If you could and I hate to ask this, but if you could
4 tell us who it's from before the content or instead of from
5 Karen Read to Brian Higgins, content. That would be just a
6 little bit easier I think in flow.

7 A The last one was from Karen Read. She stated, "Did you
8 try that Smirnoff?" And then stopped by the Hilly last
9 night for one.

10 From Brian Higgins to Karen Read, "Ha-ha," followed by
11 a stick person. How did get my digits????? Karen Read to
12 Brian Higgins, "The Melissa and Lito Show."

13 Q Brian Higgins to Karen Read, "Ha-ha." Brian Higgins to
14 Karen Read, "I thought you creeped John's phone." Brian
15 Higgins to Karen Read, "Ha-ha." Karen Read to Brian
16 Higgins, "No way," with an emoji a person holding an X in
17 front of them. "I was the last person in greater Canton
18 who didn't have your pound sign, number sign. I think even
19 Kerri has it."

20 THE COURT: I'm going to see counsel at sidebar for a
21 moment, please.

22 (Sidebar commences:

23 THE COURT: There has to be a better way. Can we get
24 them electronically? It's not just that it's going to take
25 forever; it's not landing on the jurors.

1 MR. BRENNAN: Can I bring Cindy up at sidebar and ask
2 her?

3 THE COURT: Yes. I mean, it's better for everybody --

4 MR. JACKSON: I have no problem. I just don't have it.

5 MR. BRENNAN: She has it.

6 THE COURT: All right.

7 MR. BRENNAN: So maybe Mr. Jackson can just reach over
8 and speak to Ms. Gilman and then arrange how they'll do it.

9 THE COURT: Dave, will you get Ms. Gilman for a minute?
10 Can you do anything else while we set up?

11 MR. JACKSON: I have to look at my notes, but probably.
12 It's just a little clunky, but I could probably --

13 THE COURT: If you could do so, I think the jurors will
14 welcome a break where testimony actually moves a bit,
15 especially now. It's been more than an hour that we've
16 been either here or there.

17 (Ms. Gilman present.)

18 Ms. Gilman, can you -- do you have this document?

19 MS. GILMAN: Yes, Your Honor.

20 THE COURT: Is it something you can get your hands on
21 quickly?

22 MS. GILMAN: I have it ready to go.

23 THE COURT: Oh, okay. Mr. Jackson, Ms. Gilman has it
24 ready to go.

25 MR. JACKSON: Oh, perfect. That's perfect.

1 THE COURT: So she has it. She can take a minute and
2 get it ready to go.

3 MR. JACKSON: You're the best.

4 THE COURT: All right. Hopefully this move a little
5 faster. At least if the jurors can see it. Does he have
6 to read every question mark?

7 MR. JACKSON: No, he doesn't.

8 THE COURT: I can instruct him, if you'd like.

9 MR. BRENNAN: He doesn't have to read the emojis or the
10 punctuation.

11 MR. JACKSON: No, agreed.

12 MR. BRENNAN: Although, I'm not sure he'll know exactly
13 what that means.

14 THE COURT: I'll say the little pictures.

15 MR. BRENNAN: I can understand that, yeah, and the
16 punctuation. But I mean that respectfully. I mean that
17 respectfully.

18 THE COURT: No, I know. Over the years of hearing him
19 testifying, that's consistent with my experience here.
20 It's a non-native English speaker.

21 MR. BRENNAN: It's a younger generation.

22 THE COURT: Thank you.

23 MR. BRENNAN: Thank you.

24 end of sidebar.)

1 THE COURT: All right. So, Sergeant Bukhenik and
2 jurors, we're trying to make this easier for everybody to
3 either read or listen to or look at, so we're just going to
4 a make a minute. We think that we have that -- this
5 document here.

6 And also to make it a little bit easier for everybody,
7 Sergeant Bukhenik, you do not have to describe the emojis.
8 You don't have to say anything about what the pictures are,
9 and you don't have to say the punctuation now that we'll be
10 able to have it. But you are being asked to read which
11 text is from whom. Maybe if we agree upon the color, you
12 want have to say that.

13 Can we be in agreement with that, Counsel?

14 MR. BRENNAN: We can do that.

15 MR. JACKSON: I'll stipulate that the blue bubbles
16 appear to be Mr. Higgins.

17 THE COURT: And the gray --

18 MR. JACKSON: And the gray bubbles appear to be Ms.
19 Read, the text and response.

20 THE COURT: Okay.

21 MR. BRENNAN: That's agreed, Your Honor.

22 THE COURT: All right. I appreciate that. So you can
23 just read the screen or read what you have in front of you.

24 A Do you want me to start at the beginning --

25 THE COURT: No.

1 Q No.

2 THE COURT: Just start where -- I'm sorry. Start where
3 you ended, please.

4 All right. Could we turn the lights down? Can you see
5 it, Sergeant, with the lights off?

6 THE WITNESS: Yes, Your Honor.

7 THE COURT: Okay. Thank you.

8 A "I just don't give my personal number to anyone. How
9 would Kerri have my number?"

10 "Melissa had it. I actually don't know if Kerri does.
11 Just felt like everyone had it."

12 "Ha-ha. I knew she did. Sorry you felt neglected. Ha-
13 ha."

14 "So no dice on the Smirnoff?"

15 "I have not tried. Saw it in the store the other day
16 and thought of you. I laughed out loud. Don't give Kerri
17 my digits."

18 "Thought of me and everyone's grandfather. I won't
19 give you -- I won't give your digits to anyone. You don't
20 like Kerri?"

21 "I have no issues with Kerri. Just don't want her
22 having my jack. Saving you as Karen screwdriver or
23 weedwhacker. Need to think about it a little."

24 "I'd prefer weedwhacker."

25 "That's the thing about nicknames."

1 "We were tossing around the idea of a short vacay with
2 the Curran show. Wanted to see if you were game."

3 "You don't have a say? Vacation, where?"

4 "I know. They need to happen organically. I'm the
5 queen of nicknames. We're just going to rent a beach house
6 in Fort Laud. Something quick and easy."

7 "Hmmm."

8 "I'm queen of vacays, too. Always a good time."

9 "I'm going to Nashville next month 19th through the
10 21st for a benefit. One of our guys got shot in the head.
11 You guys should come." "So you claim." Advertisement.

12 "Jesus. Is he alive? Was he from Massachusetts?"

13 "Yes, he's alive. Not from MA."

14 "We were thinking late March."

15 "I guess a guy in his group is his friends with Old
16 Dominion Band. Kid Rock is supposed to be there, too."

17 "I have a tough time with country. I was a Kid Rock
18 fan back in the day."

19 "I agree. Of course you were. From Brockton. LOL."

20 "That's how I got my street cred."

21 "Funny. I did know you had any. LOL. Kerri said
22 you'd tag along."

23 "No one would say that about me."

24 "How would I know?"

1 "We all frequent the same watering hole. I don't know
2 Kerri well. She talks about herself a lot, but I guess so
3 does everyone."

4 "I don't ask questions, just make observations, assess
5 and decide. I am quiet."

6 "That's a good policy. You can read most people in a
7 few minutes." Excuse me. Minutes.

8 "Yep, for sure. You did you go out with last night?"

9 "Myself. I only had a drink and a half. Sadly, I know
10 everyone at this point."

11 "Lame. Why is that bad?"

12 "BC that's how much I go in there."

13 "What do you do for work?"

14 "I've never had a problem going into going into --
15 going to bar/restaurant solo."

16 "I got there a little."

17 "I'm a college professor."

18 "Solo is cool. I was an adjunct previously."

19 "Oh, really? Did you mention that?"

20 "Anna Maria, Quincy College, and BHCC."

21 "I teach afternoons and work downtown during the day.

22 What is BHCC?

23 "University of Southern Charlestown a.k.a. Bunker Hill
24 Community College."

1 "Oh, nice. Trust is life. Line from *Goodwill Hunting*
2 in the classroom at BHCC."

3 "Funny. A savant from Brockton."

4 "I'm not making fun of BHCC. My parents met at
5 community college. Fall Riverites."

6 "You're very random."

7 "How so?"

8 "You just are."

9 "I don't think so. What's random?"

10 "Ha-ha. I had no idea who this was last for a few
11 minutes anyway."

12 "I mean, what's random about me. I think I'm pretty
13 predictable."

14 "How so?"

15 "You must go around beeping at a lot weedwhackers
16 then."

17 "Nope, never. It was my one-time thing."

18 "Random sounds like I'm scattered, and all over the
19 place." "I learned my lesson. You have your shit
20 together."

21 "That was mortifying. I am still really sorry, not
22 completely, but for the most part, yes."

23 "Hmm. Sure you are. One thing I don't think you were
24 was sensitive."

1 "When was I sensitive? To the weed whacking incident?
2 I just snap when I think guys are being creeps. Can't help
3 it."

4 "I'm not a creep"

5 "No, you're not a creep."

6 "Nope."

7 "You're kind of a loner, which I used to be."

8 "Not really. I have a ton of buddies, but I only let a
9 handful of friends in that I am tight with. So you think
10 you got me figured out? Circle of trust."

11 "Yeah, I said loner, not loser. I assume you know a
12 lot of people. You never really can figure anyone out
13 completely. Your dad died when you were young?"

14 "He died in March 2020. I am so not a loser. You
15 won't figure me out. LOL."

16 "No one is a loser. I just didn't mean loner to imply
17 friendless. I'm sorry. That's recent. It wasn't COVID,
18 was it?"

19 "Cancer."

20 "I know you date girls who don't lock the house behind
21 them, and you are private and observant. I'm sorry. What
22 kind?"

23 "Lung, brain, kidney, and pelvis? How do you know all
24 these things? LOL. You're funny."

1 "Yikes, wow. That's rough. Jesus. I'm sorry. We chat a
2 lot at the Hillside."

3 "Don't be sorry. Life is hard sometimes. I always
4 figure it out. Who chats?"

5 "Life is hard but losing people is the hardest, so I'm
6 sorry. We chat."

7 "That all you got, we chat? Sure you're from Brockton?
8 Spit it out."

9 "You and I chatted about the girl who kept forgetting
10 the door lock."

11 "Oh, she has been out of playful, like, three months
12 now." "Out of the rotation?"

13 "No, just out of play. I am solo. No rotation. I am
14 not a ho."

15 "Solo?"

16 "Solo like no rotation or woman for that matter. Not
17 locked down. Ha-ha."

18 "Good for you. That's the best way to be."

19 "Has its benefits for sure. Are you working?"

20 "Remotely."

21 "Oh, tough life. Live like a queen. I just got a
22 Saturday invite."

23 "Did you say yes?"

24 "Not yet but did respond."

25 "What did you say, Mr. Elusive?"

1 "No, I just don't want to intrude on your couples'
2 night. Ha-ha. I am shy."

3 "We prefer to hang out with noncouples. Bob Gallery is
4 probably coming, too, solo. We'll probably do cards or
5 something at some point. I am inviting you."

6 "Ha-ha. John said, quote, Brian is being wishy-washy
7 now."

8 "Ha-ha. Did you tell him to text me?"

9 "No."

10 "You cranky now?"

11 "Ha-ha, no. Just stop being so anti-couples. Most
12 couples don't even like each other."

13 "Name a few."

14 "Name a few? I don't know. All of them? They all
15 want to hang out with single people."

16 "Hmm. I need a drink."

17 "I had a blueberry beer."

18 "I am jealous."

19 "Hey, I'm trying to menu plan for Saturday, Mr.
20 Elusive."

21 "Don't count on me."

22 "Boo."

23 "Ha-ha. I am sure you will get over it. Just got my
24 first drink."

25 "Where?"

1 "Brickhouse."

2 "You tie one on last night?"

3 "I was just thinking about you. Ha-ha. Yes, 4:30 a.m.
4 came early this morning."

5 "Eek, that's early. You out late with the Commodores?"

6 "Solo."

7 "Yeah, but you're always lining up your after party."

8 "Nope, not me. Selective. I am not a ho."

9 "Hey, no judgment."

10 "Ha-ha. You make me laugh."

11 "I know. I'm funny."

12 "Ha-ha. What's on your mind?"

13 "Nada. Just about to start cooking."

14 "Hmm. Okay. What's on your side?"

15 "I'm going to a Hillside regular's 60th tomorrow. This
16 could be a new low for me."

17 "Who?"

18 MR. JACKSON: Detective, if I could interrupt one
19 second. When there is a date that's delineated, could you
20 just state the date out loud so the jurors follow the date
21 correction?

22 A The next -- I'll start with the next one. I'm saying
23 the next text message date or --

24 Q Yes, sir.

25 A -- the date within?

1 Q Where the -- bubble below the bubbles.

2 A So this screen here is Friday, January 13, at 3:33 p.m.

3 Q Thank you.

4 A I believe I stopped before Bob Clinton."

5 "Everybody can't stand him."

6 "I detest him. His breath smells like ass."

7 "OMG. Always. His daughter and I have mutual friends."

8 "I actually don't mind him when he's socially distant.

9 I think he's friendly" Why detest? Yeesh."

10 "Talks like an ass clown. Maybe I am being too hard.

11 He just says crazy shit. Doesn't know his audience."

12 "Geez, is he different from anyone else in there?"

13 "Ha-ha."

14 "His wife and daughter are cooler than he is."

15 "I like his wife. Never met the daughter. A nurse?"

16 "Yes. Her fiancé is a firefighter by coincidence with
17 people I grew up with."

18 "Crazy."

19 Sunday, January 16, 12:59 a.m.

20 "You're nuts."

21 "Foul ball."

22 "You stink."

23 "You suck and you're double trouble."

24 "You're hot."

25 "Are you serious or messing with me?"

1 "No, I'm serious."

2 "Feeling is mutual. Is that bad? Long have you thought
3 that?

4 "Are you okay driving? You don't want to stay here?"

5 "I am fine. I have an office at the PD. You didn't
6 answer the question."

7 "Rather you stay here."

8 "I wish. I think you messing with me."

9 "Why do you think that?"

10 "Because this is so out of left field. Where did these
11 feelings come from?"

12 "I just think you like me."

13 "Meaning?"

14 "Do you have your own kids?"

15 "I have no kids. How am I like you? Um, hello."

16 "Aren't we alike?"

17 "I think so."

18 "So why did you get my number and reach out to me?
19 Shoot straight with me."

20 "I told you I just think were alike, right?"

21 "Yes, agreed. Now what?"

22 "I don't know."

23 "Um, shouldn't you know?"

24 "Do you like me?"

25 "Yes. From jump."

1 "When was the jump?"

2 "First time I saw you."

3 "When was that?"

4 "Hmm. Hillside for sure. When were you interested?"

5 "I don't know. You're just my type."

6 "You think you can handle me? I thought you were
7 happy."

8 "How do you know if I'm happy?"

9 "I just assumed."

10 "Are you are to handle?"

11 "What do you like about me?"

12 "I just feel like you're from my neighborhood."

13 "Yeah, ditto."

14 "And I think you're hot."

15 "You really think that? I have always thought that
16 about you."

17 "What?"

18 "That you're hot, smart, witty, but I didn't think you
19 were interested."

20 "Witty?"

21 "Yeah, meaning quick with a response. Tell me why you
22 got my number and reached out to me."

23 "Just thought we were at the same, from the same
24 neighborhood."

25 "Are you afraid to say what's on your mind? On."

1 "No, didn't I?"

2 "I am glad I stopped by. I should have come earlier.

3 Do you really live in Mansfield?"

4 "Yeah, I was basically begging you."

5 "You don't have to bed me -- beg."

6 "Huh?"

7 "I will give you whatever you want. How are you

8 texting right now? Ugh. Leaving me hanging."

9 "No."

10 "Kids. Kind of."

11 "How am I texting?"

12 "Is everyone asleep?"

13 "I'm just quite awake on my phone. Yes, they are."

14 "I should have stayed. LOL. So now what?"

15 "Yes, you should have."

16 "That would have been distracting. So now what now

17 what now."

18 "Now what what?"

19 "Ball's in your court."

20 "What do you want?"

21 "Loaded question. What do you want?"

22 "I asked you."

23 "Nope. You initiated this. Spit it out."

24 "Hey, we're single, and we don't have kids. We can do

25 whatever we want."

1 "Don't you have a boyfriend?"

2 "Where are you?"

3 "Canton."

4 "Where?"

5 "My office at the PD."

6 "Why are you going to Mansfield?"

7 "Where is that?"

8 "Canton PD."

9 "I have a house there from before I reconnected with
10 John."

11 "Oh. I feel like you're not really saying what's on
12 your mind."

13 "Do you like me?"

14 "Yes, clearly."

15 "Come over to my house."

16 "When?"

17 "When works for you?"

18 "Whoever. Whenever. When works for you?"

19 "I asked you first."

20 "I think you're messing with me."

21 "I'm glad you came over tonight."

22 "Me, too. Ball's in your court. What do you want,
23 Karen? You looked great tonight."

24 "I don't know. What do you want?"

25 "You always don -- do."

1 "Yeesh, really? Why? I looked great? You're full of
2 it."

3 "I think you're hot. I always have that that, just
4 have not reeled my thoughts."

5 "I'm hot for the Hillside. Low comps."

6 "Knock it off. You're hot, period. Are you glad you
7 walked me out?"

8 "Um, yes. Are you?"

9 "Def."

10 "Yes. Are you going home tonight or tomorrow a.m.?"

11 "We kissed, right?"

12 "Is this a trick question?"

13 "I don't know when I'm going home. I am selling my
14 house. What a trick question?"

15 "Are you moving to Canton? I am following your lead
16 with this."

17 "I live here but I have a copy in Mfield. Why my lead?
18 I don't want any responsibility."

19 "You started this, right? Why did you get my number
20 and each out to me? Still have not told me."

21 "Sorry, should I not have?"

22 "I am fine with it. Just don't know why you can't
23 answer."

24 "You're mad at me?"

25 "OMG. No, not at all. You're being silly."

1 "I told you. I just think you like me and I am
2 attracted to you. A lot."

3 "Feeling is mutual. I just never saw this coming."

4 "Why?"

5 "Because I just assumed you were happy with your
6 situation." "I was but things have deteriorated."

7 "Why? How so? What did Melissa say when you asked for
8 my number?"

9 "It is very, very complicated. He and I dated when we
10 were kids and then his sister died and everything got
11 fucked up."

12 "He seems very into you."

13 "I just told Melissa that I had your number but I lost
14 it."

15 "That's cute. She wasn't suspicious?"

16 "No, she's great."

17 "Does she know you like me?"

18 "She's a sweetie. We just agreed that you're great."

19 "What does that mean?"

20 "I was jealous that she had your number."

21 "Like you're either all in or you're not. Why would you
22 be jealous? I am not attracted to her at all. I have
23 always been attracted to you."

24 "Really?"

1 "Yes, since the first time I saw you. We would have
2 fun."

3 "Where are you?"

4 "I told you, Canton PD, my office. So are you selling
5 your place and moving to Meadows?"

6 "Yeah, but where is that? I have had all of my shit
7 here for a couple years. My house has been vacant, but I'd
8 like to get closer to the water."

9 "Hmm. Are you breaking up resting together?"

10 "I don't know. He hooked up with another girl on
11 vacation. I am very close to his niece. It is a very
12 fucked up situation."

13 "When was that and how did you find out he hooked up?
14 I don't want to complicate your situation."

15 "We went away for New Years, the four of us. I put the
16 kids to bed and found him in the lobby of our hotel all
17 over one of our friends. Whatever. It doesn't matter."

18 "It does matter. Did they bang?"

19 "Does that matter?"

20 "Sorry. I was just asking. I was just trying to
21 figure shit out."

22 "It doesn't really matter."

23 "Okay. I won't ask again."

24 "I don't care. It doesn't matter."

25 "Okay. Hear you loud and clear, Karen."

1 "Uh, okay."

2 "Why are you getting your thing all twisted up over
3 simple questions? Thong."

4 "I am not, am I?"

5 "You are kind of getting defensive."

6 "Not at all. What is the question?"

7 "Do you feel guilty texting me?"

8 "No."

9 "Okay. What do you want from me?"

10 "Nothing. Do you want anything from me?"

11 "I would hang out."

12 "Oh, gee. Thanks."

13 "OMG. What am I supposed to say? You being tough on
14 me."

15 "None of us is married."

16 "True. So game on?"

17 "We can say whatever we want. Game on?"

18 "You send mixed messages. I wish I stayed."

19 "Okay. Game on then."

20 "Kind of. Can you hang?"

21 "Sure."

22 "I hope you toss and turn tonight."

23 "I always do."

24 "Why?"

25 "I just do."

1 "Why?"

2 "Because you're fresh."

3 "No, I'm not."

4 "Okay. Do you always get what you want?"

5 "Be sweet to me, please."

6 "I could be so sweet."

7 "I've been very sick. I had colon cancer and ten
8 surgeries in eighteen months. I'm a wreck."

9 "I had no idea. Are you okay now?"

10 "I never get what I want, just what I need. I am okay."

11 "What do you need?"

12 "What need to be content."

13 "What can I do to make you happy?"

14 "Ha-ha. Don't worry. I've always been very happy."

15 "You talk in riddles. Just tell me why you contacted
16 me."

17 "Huh?"

18 "What's the big deal?"

19 "I told you. Just think you like me."

20 "What does that mean? Like you want to hang with me?"

21 "You asked why I contacted you."

22 "Yes, I did ask."

23 "We are attracted to each other, right?"

24 "Reasonable question. Yes, 100 percent."

25 "Okay. We did kiss earlier, no?"

1 "I think you initiate that. No?

2 "Yup. Do I owe you an apology?"

3 "OMG, no. Why are you being sensitive?"

4 "I'm not."

5 "Kind of."

6 "Pfft, never. What do you want from me?"

7 "What's on the table?"

8 "What do you want, ideally?"

9 "The real deal."

10 Sunday, January 16, 7:37 a.m.

11 "Doesn't exist."

12 "Ha-ha."

13 Sunday, January 16, 5:53 p.m.

14 "So you like Hennessey XO?"

15 Sunday, January 16, 7:15 p.m.

16 "I am hurting so bad."

17 "Yeah, me, too. The Currans went after it again at noon
18 today."

19 "No way."

20 "This was about two hours before you came over."

21 "Ha-ha. I am heading for drinks soon."

22 "Really?"

23 "Yeah."

24 Tuesday, January 18, 5:09 p.m.

25 "What's on tap?"

1 "What does that mean?"

2 "Usually, it means what are you up to."

3 "Cute. I just wrapped work. Unpacking some groceries.

4 You? What's on tap?"

5 "Also unpacking crap from my car."

6 "Anything good?"

7 "Nothing on tap."

8 "Shame. You were ghost yesterday."

9 "I can't be the cruise director every day."

10 "Shame. Julie McCoy. Wish I was at my Cape house in
11 front of the fire sipping a drink."

12 "Wish I knew how to use my fireplace."

13 "From *Love Boat*. How old is your bad self?"

14 "Ha-ha. That was my guess. Forty-two next month. I
15 know the *Love Boat*. I was more *Brady Bunch*."

16 "Ha-ha. What day?"

17 "2/26."

18 "Nice. You're just a tad poke -- poke."

19 "Pole. Got you."

20 "When is the next party? Pole. Oops."

21 "It's all relative."

22 "What pole and poke?"

23 "I'd have a party every weekend if I were to me." No,
24 42 equals tad pole."

25 "Oh."

1 "I keep reminding myself that I'm aging is a privilege.
2 The better parties are at my house. No kids."

3 "Why are they better?"

4 "Well, first BC there's no kids."

5 "You were ghost yesterday. I thought I heard the last
6 of you."

7 "Phones work both ways."

8 "I don't want to disturb you or you could be otherwise
9 engaged. I don't know your routine."

10 "I didn't use the word engaged, did I?"

11 "Huh? Engaged as like doing something with someone."

12 "Yes, that's what I thought you meant."

13 "Are you being fresh today?"

14 "No."

15 "Now that you sobered up. Ha-ha."

16 "I felt sober next to everyone else on Saturday."

17 "Good point. You're still T trouble. Ha-ha."

18 "Why am I?"

19 "Just playing with you."

20 "What is that?"

21 "Whiskey with a big ice cube."

22 "What kind of whiskey? Jameson, right?"

23 "Cherry in middle."

24 "What good does that do?"

25 "Are you in W. Rox?"

1 "So good. Yeah."

2 "Do you have a 4:30 a.m. bell?"

3 "Tomorrow. Why do you ask?"

4 "Trying to figure out how many whiskeys you're going to
5 have."

6 "Depends. I don't restrict myself from having fun. How
7 many Hennessy XO's are you having?"

8 "None. I have none at my house."

9 "Ha-ha."

10 "I am not really trouble."

11 "Want me to pick you up the next time I go to the base?
12 Usually cheaper and tax-free. Just a little based on your
13 conduct."

14 "The base?"

15 "Military base."

16 "I go through the Henny fast."

17 "I shop there a lot. I can as a veteran."

18 "My conduct? I'm not married. I'm the only one who
19 does everything right. What kind of veteran? Where is the
20 base?"

21 "Dude, chill. LAX. Teasing you. Are you serious?
22 Veteran from Iraq. I can go to any piece but usually
23 Hanscom in Bedford or down the Cape."

24 "Which base down the Cape? Which branch?"

25 "Army's. Army."

1 "I'm not abnormally sensitive."

2 "Joint base Cape Cod. Aw, I won't be so hard on you."

3 "Oh, my God. You're not. You called me trouble. That
4 makes me sound bad."

5 "I was just playing with you."

6 You weren't, but that's okay."

7 "Stop being sensitive, please."

8 "I am not."

9 "Okay. So what's up?"

10 "Did you figure out how many whiskeys?"

11 "You mean tonight?"

12 "Yes."

13 "Not sure. I am flexible and adaptable. Why are you so
14 curious? Are you drinking?"

15 "I haven't had a drink yet. Just want to see what
16 you're up. Looking for an influencer. My day was long."

17 "Influence how? Are you in Canton or Mansfield
18 tonight?"

19 "Influenced to have a drink even though it's Tuesday.
20 In Mansfield."

21 "How often do you stay there? Is it a nice crib, house,
22 or condo?"

23 "I stay here once or twice a week. House. I guess
24 it's nice. I like it."

25 "How long have you owned it?" How many beds, rooms?

1 "2017 or '18. Five bedrooms."

2 "What? Why so big -- big?"

3 "I don't know. It's an old colonial. It has a lot of
4 bedrooms."

5 "More than you clearly need. Are you moving to Canton?"

6 "I know, seriously. Some rooms I only go into to dust.
7 Not anytime soon. I'm there most of the time but sometimes
8 it's a lot a lot."

9 "A lot Why? Do you even know what you want or who?"

10 "Because I went from being solo to trying to give
11 attention to kids who aren't mine. And I never want to
12 kids."

13 "I thought you were in this happy relationship."

14 "Everyone is happy at Hillside."

15 "Oh, God. You avoid things."

16 "It's just a very, very complicated dynamic with the
17 four of us. He isn't cut out for what he's doing, and the
18 kids present constant issues."

19 "I think he believes he is doing the right thing."

20 "Well, of course he is, but his heart isn't in it. It's
21 only because he was very, very close to sister."

22 "I know how you feel kind of. I was married and when I
23 met her, she had a two half-year-old. I went from being
24 single to being a dad. It's hard. I am divorced since
25 2017 and have no kids."

1 "I try very hard, but they are very spoiled. And
2 they're not my family. My parents keep telling me I'd feel
3 different if they were mine or my own sister's. Then I
4 told you he got drunk and sloppy New Year's Eve while we
5 were away and that has really affected me."

6 "What did he exactly do?"

7 "I never got married and now somehow I'm arguing with
8 someone about raising kids."

9 "Why won't you tell me?"

10 "He was a puddle all day and then disappeared. Then I
11 found him all over friend's sister at the lobby of our
12 hotel, and she's gross, which I think may actually be
13 worse. Not sure."

14 "Oh, God. Did they bang?"

15 "So I was with kids celebrating New Years without him,
16 which shouldn't be my role. No, I doubt it. He was a
17 mess."

18 "Hmm. Was it a first time with her or do you think
19 there were others?"

20 "I don't really think there were others. I'm with him
21 all the time. He never seems to want to go anywhere
22 without me, but honestly, the issues with the kids bother
23 me more than him actually cheating. They're constant and
24 it feels like a lose/lose."

1 "Hmm. You clearly have a lot of feelings swirling
2 inside you."

3 "Yeah, it's very complicated. Sorry for the rant."

4 "You can vent, babe."

5 "Basically, I just feel like I spread myself too thin,
6 and sometimes it's thankless."

7 "Hmm."

8 "You probably felt that way, too."

9 "I did at times. It was one, not two, thankfully."

10 "Want to grab a drink?"

11 "If you gave me some notice, I could have."

12 "You said you were adaptable."

13 "I am but I have my work truck with me and not my
14 personal. Do you get angry when you don't get your way?"

15 "That sounds like an excuse. I rarely get my way."

16 "I don't make excuse -- excuses. If I don't want to
17 deal with someone, I tell them and then I am ghost. Why do
18 you want to hang with me?"

19 "Don't we already hang out?"

20 "I don't make excuses."

21 "Work truck/personal truck? That doesn't sound like a
22 massive problem. I end up drinking with you at least once
23 a week I'd say."

1 "I can't use my work truck for transportation to go
2 drink. You think so. What makes you so sure? Probably
3 would be fun."

4 "I think I see about once a week at a bar, no?"

5 "Not lately, but, yes."

6 "Okay. So you asked why I want to hang out. I'm just
7 saying that I already hang out with you."

8 "Yeah, but we have never one-on-one."

9 "Does going to a friend's qualify as transportation to
10 drink?"

11 "Yeah, cause I can't just have one. Can't drive that
12 banged up."

13 "Have none then."

14 "There's five bedrooms here."

15 "Does mine have a lock on the door? Ha-ha."

16 "LOL. I don't even know. I think so."

17 "You probably have a spare key."

18 "I don't know if I ever shut or locked a door here."

19 "Funny. My trust me, I am tempted."

20 "Grab the Hennessey. Thanks, doll."

21 "Funny. I am confused. You don't feel guilty inviting
22 me over?"

23 "Should I?"

24 "I don't know. Who knows what you feel? Only know
25 what you said when you were drinking Hennessy? Ha-ha."

1 "Geez, I just explained everything I thought."

2 "Wow, you get angry easy."

3 "What are you talking about? I'm not angry at the
4 least."

5 "Okay. Good."

6 "And I haven't had a single drink today."

7 "Okay."

8 "I don't really think I should feel guilty."

9 "Why is that?"

10 "Why should I not?"

11 "Dude, I am just asking. Don't get your thong all
12 twisted up."

13 "Yeah, I just don't know what the question was. You
14 have no impact on my thong. I think I try to do my best by
15 people and sometimes people suck, and I'm not married, nor
16 do I have kids."

17 "I agree. But you kind of have a live-in boyfriend.
18 You act like I ask dumb questions."

19 "Yeah, kind of. It's been a long time and there's ups
20 and downs, so at some point you have to think more
21 rationally."

22 "Do you plan on leaving him?"

23 "I'm sorry. I don't think they're dumb. It's just
24 hard back-and-forth on text to understand the question.
25 When you asked, what day earlier regarding my birthday, I

1 thought for a full minute that you meant what day did I
2 used to watch *The Brady Bunch*. And I had typed it in a text
3 every school day at 4:00 and 4:30 p.m."

4 "I meant what day was your b-day."

5 "I don't have any plans at the moment in either
6 direction. Sometimes I go back and forth. Yeah, I figured
7 that out."

8 "What's your interest in me?"

9 "I assume people have been interested in you before."

10 "True."

11 "First, I think you're fun to talk to. I like sizing
12 other people up, and you seem to be private, which I also
13 like, and probably pretty independent, too, which I also
14 like."

15 "I am a ton of fun. I am super private and do not talk
16 out of school. I am safe. Does that make sense? I am all
17 that and more."

18 "Safe?"

19 "Like, I am private, don't talk out of school with what
20 I do or who I hang with. Do I aggravate you?"

21 "Ha-ha. No."

22 "According to John, you may occasionally talk out of
23 school."

24 "He said that about me?"

25 "But that's none of my business."

1 "With respects to what exactly?"

2 "None of my biz."

3 "So then why invite me into your house party? Now I am
4 aggravated."

5 "Tonight's house party or last week? OMG, why?"

6 "Last week. Like, why would he talk shut about me?"

7 "Because we all like you. Everyone does. Geesh."

8 "You just said he talked shit about me."

9 "He wasn't talking shit at all. He always says how much
10 he likes you. Just mentioned, 'Brian does all right for
11 himself.' He has not said one negative thing about you
12 ever. I just didn't think you were that private, that's
13 all."

14 "I am about a lot of things."

15 "Don't be so sensitive."

16 "I am good."

17 "Oh, geez. Are your panties in a twist now? Stop."

18 "Nah, my boxers are just fine."

19 "Okay. So you're not going to run your work truck
20 through the gears tonight? I thought you were tons of
21 fun."

22 "No, I am not as much as I would like to. Moving onto
23 the next call?"

24 "Huh? Will you stop?"

25 "You sensitive again?"

1 "I can't really follow your thought process. You keep
2 kind of insulting me a little."

3 "I am still confused why you want to hang with me.
4 It's all so out of left field. No, I am not."

5 "Are you single?"

6 "Yes."

7 "I don't think it's out of left field. Wasn't I
8 already begging you to come over last Saturday?"

9 "You getting my number from Melissa and reaching out to
10 me?"

11 "And on vacay and probably a few other occasions."

12 "You didn't really beg."

13 "I asked at least twice. How do people usually reach
14 out to review each other?"

15 "Why would I have thought you had any interest in me?
16 Um, usually do it when they delivered someone. Do not."

17 "Maybe, maybe not."

18 "So you have sent me signs before? Did I miss them?"

19 "John and I have had a lot of ups and downs, and we
20 already did this nearly 20 years ago. And there's kids
21 involved they get attached things get muddy. I don't know
22 what the answer is, but I feel very strongly that I put my
23 best effort in with all three of them, and the extended
24 family, too. At some point it gets frustrating and my
25 actual feelings take precedence."

1 "I get it. I am not denying that or that it gets
2 tough. Do you remember anything you said to me the other
3 night?"

4 "I'm just trying to explain where I'm coming from.
5 Yes."

6 "I get it."

7 "I deleted it because I didn't want to do my own text
8 walk of shame, but I'm pretty sure I remember everything."

9 "Um, okay. So don't you think it might complicate and
10 confuse your situation if we hung out? Fair question."

11 "Probably. Do you only do things that simply --
12 simplify your life?"

13 "Nope, I complicate my life on the regular."

14 "Yeah, so does everyone else."

15 "Just so you know, I thought you were extremely hot off
16 the rip. Amazing personality. I could go on and on, but I
17 do not want to pump your shut up too much."

18 "Thanks for saying that, but low comps at Hillside."

19 "You know how to ruin something nice. I frequent other
20 places."

21 "John has showed me about five times the Ring video of
22 me walking you out on Saturday and my voice and my accent
23 are killing me softly."

24 "Um, what?"

25 "Yeah, he has cameras everywhere. You cops."

1 "Jesus."

2 "He's like, Christ, are you guys hooking up?"

3 "OMG. Great. I don't need any drama, dude."

4 "No, it's fine."

5 "Seriously."

6 "I am serious."

7 "You legit planted one on me."

8 "I know where the cameras are anyway, duh. Oh, my God.
9 Bruins."

10 "So you your slick move isn't on there?"

11 "Course not."

12 "Oh, my God. I almost."

13 "It was a peck anyway. I kissed Kerri and gay Jeff,
14 too."

15 "Yeah, weak. I agree."

16 "LOL. Funny."

17 "So now he is jealous of me?"

18 "No. I told you he likes you a lot."

19 "Which makes this worse?"

20 "You said or did something at the bar last week, and he
21 goes, I like Brian more and more."

22 "I think he is a good dude, too."

23 "Yeah, he is."

1 "Funny. What's your end game? What do you want from
2 me? You will just confuse the shot out of yourself. Shit.
3 Because I am a lot of fun."

4 "So am I. I'm sure I'm more fun than you."

5 "How so? Details."

6 "I don't know. I hate people on the whole, but I've
7 been told by many people that I'm a lot of fun. I don't do
8 anything half ass. Nothing."

9 "Hmm. So what do you want from me?"

10 "I don't know. I just like you so I reached out."

11 "You have zero idea?"

12 "Nope."

13 "Oh, God."

14 "What now? Why oh God?"

15 "Because I need some direction."

16 "Well, I'm not an f'ing -- FG oracle. Sorry."

17 "That's actually funny. Do you eventually get what you
18 want?"

19 "I told you - rarely."

20 "So you're a quitter."

21 "A realist."

22 "So you reached out to me, a ballsy move. Now what?"

23 "The things I've worked the hardest for have meant the
24 most."

25 "Does Melissa know you did me?"

1 "Ballsy? Not really. I already know you."

2 "True. But you have a man."

3 "I figured if you text with Melissa, you'd definitely
4 text with me."

5 "She isn't trying to hang with me."

6 "Of course she is."

7 "Plus I never really text with her other than to see if
8 they were headed out."

9 "I asked you over is what. You made excuses. That's
10 fine. But I'm not asking again."

11 "She doesn't like me like that."

12 "I'm sure she does."

13 "What makes you so sure?"

14 "Because she said, 'I'd love to set Brian up with my
15 sister. She deserves such a good guy like him.'"

16 "That doesn't mean she wants to bang me herself."

17 "And I think Lito is kind of a dink, so I'm sure
18 Melissa likes you will wee bit."

19 "Herself. Yeah, he is interesting."

20 "Have you always had trouble accepting compliments?
21 Yeesh."

22 "No, it at all. All yours came to me after a day of
23 drinking. You were way more all over me that day."

24 "So what? Don't most compliments come that way?"

25 "Like all over me with compliments and how you felt."

1 "It was 3:30 a.m."

2 "It was fun."

3 "I've complimented you today, too."

4 "And kicked my nuts in."

5 "Oh, my God. How?"

6 "If I had more notice, I would have grabbed a drink
7 somewhere. So I am all set with, 'That's fine but I am not
8 asking again.'"

9 "Well, it was 7:00 p.m., and I'm super cool. So right
10 now asking again."

11 "Coming to your house would have been bad for the both
12 of us. For starters, you wouldn't have wanted me to
13 leave."

14 "Now equals not. That sounds good."

15 "That's trouble."

16 "Why?"

17 "Because you would have made me stay. Locked me in
18 your room."

19 "No, I wouldn't have. Ha-ha, you wish. I don't share
20 a bed with anyone, ever. I have my own room in Canton."

21 "What?"

22 "Yeah, I think sharing a bed is archaic."

23 "Is that the one you wanted me tk stay in? You sit like
24 to be spooned? You don't."

25 "Not for more than a minute or two."

1 "Weird. You would rather sleep alone."

2 "I've got to make my sleep count. So doesn't everyone.
3 Honestly, I am the world's lightest sleeper. I can hear an
4 ant crawling across the floor, and I wake up almost hourly,
5 which is fair to whoever I'm sleeping with."

6 "Okay. Bet Melissa isn't like that. Ha-ha. Lori
7 wouldn't like that."

8 "I know for a fact Melissa is like that. She told me
9 she can't even fall asleep unless they're spooning. Lito
10 rolled his eyes and pointed a gun at his head. You've
11 probably got to go to work on your truck. Talk soon."

12 "Whatever."

13 "Lighten up, Francis."

14 "Let me know when you figure out shit out."

15 "That's a tailor made joke for an Army vet. No one else
16 has it figured out, why do I?"

17 "Combat vet."

18 "I didn't say noncombat. I told Sat I think you're
19 hot, since told you how cool I think you are. Maybe you're
20 actually a jerk. What do you want me to say/do? I'm
21 pretty sure you're seeing people, too."

22 "I am not a jerk. Don't change the narrative to suit
23 yourself. Own your words."

24 "I don't think you're a jerk. I don't have simply
25 answers to your questions."

1 "It's actually simple. What do you want from me? What
2 do you desire?"

3 "To start, I would just like to hang out because I like
4 to talk to you and hear what you have to say. If that's it,
5 I'd be happy."

6 "Okay. I will lock you into that statement."

7 "That's fine."

8 "I suspect you will give up eventually. So just so you
9 know, I will still be your friend."

10 "Clearly, you're trying to give me the Heisman."

11 "No, not at all. Why would you say that?"

12 "Because I've tried and am failing."

13 "Tried what? Failing what?"

14 "Hot and personality and what else? What's the I could
15 go on and on part? BC it feels like Heisman sugar coated
16 with a few compliments. That's okay. I asked you over on
17 a seemingly uneventful Tuesday."

18 "Yeah, but with zero heads-up I have to get up at 4:30
19 a.m. Didn't hear from you yesterday at all, so I should
20 have been a mind reader that you were going to extend an
21 offer to your crib for a drink. If you want to give up,
22 that's on you. You're being silly for the record."

23 "No, I'm busting your chops. It's okay."

24 "No, you're sensitive. Nice try. You don't think if I
25 came over for a drink you would have gotten carried away?"

1 "You said you are adaptable and tons of fun. I took
2 that as an invite for an invite."

3 "Oh, okay."

4 "I'm 42. I know what happens when you invite someone
5 over for a drink."

6 "you're the master of avoidance. So you think I would
7 just give it to yo to you? Give it up."

8 "I've been a lot in my life. I have a little bit of a
9 carpe diem mindset. Been through. What am I avoiding? I'm
10 not afraid to be direct."

11 "Some of my questions."

12 "Okay, which? Ask again."

13 "Nope. Tricks are not for kids."

14 "I'm pretty sure we would've hopped up."

15 "Okay."

16 "I can't say that?"

17 "Of course you can."

18 "Did I miss any other questions, sir?"

19 "Probably. Are you having a drink right now?"

20 "Yeah, on my second."

21 "Show me what you got."

22 "I went for some wine and downgraded to a mudslide.
23 The Taunton in me."

24 "Ha-ha. I had to make another one because you got me
25 all worked up."

1 "I could've made it for you, weirdo."

2 "Sure, you could have done a lot."

3 "And you got yourself worked up, buddy."

4 "Yup, I am. That a crime?"

5 "Are you annoyed?"

6 "Kind of."

7 "Why?"

8 "Because there was this offer on me last minute.

9 Threw."

10 "I could have made three roundtrips by now."

11 "Oh, I bet. Crickets."

12 "Four roundtrips."

13 "Bite me."

14 "Geez, that's fresh. So you only say like one nice
15 thing per day? Tough."

16 "You're impossible. Let me know when you figure this
17 out."

18 "You're impossible. I've been pretty straightforward.
19 You're wishy-washy. What do you want from me?"

20 "Doesn't matter."

21 "Okay, then."

22 Wednesday, January 19, 10:08 a.m.

23 "Sup."

24 "Sup."

25 "You tell me, player."

1 "Just working remotely."

2 "Sweet. From Mansfield?"

3 "Yep. You?"

4 "I am in Canton at the moment. I want to drink. Ha-
5 ha. Is that bad?"

6 "Really? I think day drinking once a week is okay. Go
7 celebrate the 20th anniversary of the tuck rule."

8 "I can wait until tonight."

9 Wednesday, January 19, at 1:07 p.m.

10 "Where are you planning on heading?"

11 "Not sure."

12 Wednesday, January 19, 3:34 p.m.

13 "I'd invite you over here but you probably have your
14 work truck."

15 "Here we go."

16 I assume that's a pass. No prob."

17 "What's wrong with you?"

18 "Excuse me?"

19 "I didn't answer fast enough?"

20 "Huh? Where'd you get that from? You're tough to make
21 plans with. I'm headed out shortly. I tried."

22 "Where to?"

23 "I'm meeting my friend in town until about 7:00 and
24 then likely make my way back."

25 "Okay."

1 "Where are you heading back to, shady?"

2 "I assume that means shady." I'm meeting my gal pal,
3 who's from Canton. Back to Mansfield."

4 "Do I know her name?"

5 "I don't think so. Julia Mellon. Lives on Sherman."

6 "Hmm. I'm not trying to be difficult. I just don't
7 want any drama."

8 "I don't either."

9 "Okay. Trust me. I am tempted."

10 "I don't think it's a big deal."

11 "What, you coming over to my place?"

12 "Or you coming over mine?"

13 "Um, okay. You clearly are getting aggravated with me
14 and my lack of participation."

15 "No, I'm not aggravated at all."

16 "Okay."

17 "We're good. I will see you around."

18 "I knew this is how you would act. Whatev. You can get
19 most any guy you want, so you're not losing any sleep over
20 this."

21 "None of that is true. I'm not talking to any other
22 guys, and I have issues with John and things are far from
23 perfect. You just have to do it about him because we all
24 hang out at the same bar. I'm sure you talk to other

1 girls. That's what single people do. I'm not married and
2 neither are. Neither is John."

3 "Was that your attempt at a lecture or deductive
4 reasoning? What do you want from me?"

5 "That's just how I think/feel? You don't need to
6 approve. I've already answered that last question a couple
7 of times, I think."

8 "I am not judging you. Never have, never will."

9 "You shouldn't. I don't know what your private life is
10 about, nor is it my business. You just happen to know that
11 I see someone. I don't have kids, and I'm not married."

12 "Aren't you afraid you might actually like me?"

13 "I don't think that's a bad thing. Isn't that the
14 point?"

15 "Well, it would be complicated because you have a
16 boyfriend. Funny, you said we are a lot alike because we
17 are."

18 "Yeah, life never stays the same. Things always
19 change."

20 "Okay."

21 "Why are we alike according to you?"

22 "Because we go with our gut and how we feel. Isn't
23 that kind of what you told me?"

24 "Yes, that's true."

1 "Have a good night. You're clearly irritated. Sorry
2 to bother young -- you."

3 "Either texting is bad or you're sensitive. I'm not
4 irritated at all. I swear. I had been going out with
5 someone for a few years when I reconnected with John. John
6 and I got on very well at the same time so he broke it off
7 the other guy. He was probably starting to see other
8 people if I was completely honest with myself. I don't
9 feel bad about any of that. I think it was meant to work
10 out that way."

11 "So what's your point? Are you legitimately
12 interested, unhappy in your relationship, mad because you
13 saw him all over another girl, or a hybrid of all of it?"

14 "My only PT is that there's a difference between being
15 married to someone and dating them, and we have no
16 intention of ever getting married. The PT of dating is to
17 not get tied down if you not confident you should be, in my
18 mind anyway.

19 The first two, but I don't care too much about the
20 other girl."

21 "Okay. So he's cool with you dating other people?"

22 "And I'm not happy per se, just realistic that this
23 cracks and it's far from perfect. I doubt it. If he is
24 seeing someone else, I wouldn't want to know either way.

1 He probably feels the same, and you probably feel that way
2 about whoever you hook up with. I think that's normal."

3 "Okay."

4 "You don't agree with me?"

5 "You make some valid points."

6 "No shit, Sherlock. Come on, I'm funny."

7 "Sit on that and spin."

8 "See now you have to go below the belt."

9 "Love it there. Do wear belts?"

10 "Only once in a while."

11 "Okay."

12 "When I go into the office."

13 "Okay."

14 "Rando."

15 "Ha-ha. I was teasing you. You getting all dressed up
16 for me? Ha-ha."

17 "I pretty much where all black every day."

18 "Love it. Where you going in town? Newbury. She
19 works there."

20 "Doing?"

21 "She works for my friend who's a plastic surgeon.
22 That's how I know her. Coincidence she lives around the
23 corner."

24 "So funny. Around the corner from your second home.
25 Ha-ha."

1 "Oh, ha-ha. I had to come downtown earlier so told her
2 I'd meet her for a drink."

3 "You there now? You would like my spot at the Cape. I
4 have a great spot for dinner and drinks there."

5 "Are you there tonight? I'm a beach worshiper.
6 Where's that?"

7 "I'm in West Roxbury, a spot in West Rox/Dedham line. I
8 have a pass to drive my Jeep on the beach. Lots of fun to
9 be had."

10 "I heard. I used to rent with my friends on the beach
11 for seven straight years. I miss it. I've been thinking
12 about moving to Tiverton."

13 "I can give you all the beach life you can handle.
14 Stopping for a drink later?"

15 "By where?"

16 "My spot in West Rox."

17 "Probably not for bit."

18 "Okay."

19 "At a bar?"

20 "I wasn't suggesting anytime soon." I know you're with
21 your friend. I meant my house."

22 "Probably after 8:00."

23 "Okay. If you don't want to, that's fine. No
24 pressure."

25 "I will. A drink."

1 "What do you drink? Are you out now?"

2 "Sorry. I drink whiskey if that's what you're having."

3 "Ha-ha. Send me a pic of you two."

4 "Ha-ha. I figured."

5 "My shot is tight -- shit. Sure you can handle this?"

6 "Please."

7 "Bite me."

8 "Stop saying fresh things."

9 "Why?"

10 Q Excuse me. I'm sorry, Detective. There may have been
11 a page that is missing in that document, or is not
12 comporting with the --

13 A Oh, you're right. I did that accidentally turning the
14 page.

15 Q No problem.

16 A I apologize.

17 Q Let me start again. "I usually drink whatever the
18 person with me is having."

19 A Yep.

20 "I usually drink whatever the person with me is
21 having."

22 "Oh, okay."

23 "I don't take selfies, either. I don't really even
24 know how."

25 "Whatever. I wanted to see your smile."

1 "Ugh. I hate having my photo taken."

2 "Weak."

3 "Sorry. I am a very particular person."

4 "What's that mean? Okay. Never mind. Go enjoy your
5 friend."

6 "Go clean your house, will ya?"

7 "My shit is spotless."

8 "Ha-ha. I figured."

9 "My shot is tight -- shit. Sure you can handle this?"

10 "Please."

11 "Bite me."

12 "Stop saying fresh things."

13 "Why?"

14 "Are those statements tempting?"

15 "Nope."

16 "Oh."

17 "Which statements?"

18 "Perhaps you should drive directly to Mansfield."

19 "You said bite me, like, three times."

20 "Okay."

21 "Eight-thirtyish is too late?"

22 "For what?"

23 "A drink."

24 "No. Why?"

25 "Are we not meeting up?"

1 "You can stop over for a drink. Ball is in your
2 court."

3 "Are you going give me the address?"

4 "Yeah."

5 "We don't have to meet up if you don't want to, but I'm
6 leaving town now."

7 "I am up for a drink."

8 "Okay. Should I drive around -- should I drive around
9 W. Roxbury," I assume it says, "yelling your name?" It's
10 cut off. "Are you going to give me the address?"

11 "Yeah."

12 "We don't have to meet up if you don't want to, but I'm
13 leaving town now."

14 All right. It repeats itself. I apologize.

15 "So, okay, should I drive around W Roxbury yelling your
16 name?"

17 "Ha-ha. No. Where are you now?"

18 "Newbury."

19 "Do you really want to come over?"

20 "Only if you want me to."

21 "Can you take charge?"

22 "I thought we already settled this."

23 "Ha-ha."

24 "Okay. Well, I am in my car and now getting on the
25 highway. This feels like I am forcing you."

1 "Not at all. I am game."

2 "Okay. Well, I'd like to know where the hell I'm
3 going. Pike or 93."

4 "You just don't -- you just want to meet me at the crib
5 or do you want to come over?"

6 "Pike I would daub -- say."

7 "You decide. I don't know either."

8 "Whatever you want."

9 "I don't either place so wherever you're comfortable."

10 "You know anyone in West Rox?"

11 "I don't think so."

12 "Ha-ha-ha."

13 "Then just stop by for a drink. Up to you. No
14 pressure."

15 "Just give me an address. I hate texting while
16 driving."

17 "Bryant Road. Text me when close."

18 "Okay."

19 "I will show you where to print -- park."

20 "That's W Roxbury. It's not coming up."

21 "Yeah, then put Boston in."

22 Bryan Drive, West Roxbury Township, New Jersey.

23 Searching for a friend, and add your phone context so you
24 can search for their address on maps. It's a screenshot.
25 It's sent through.

1 "First come," excuse me, "First one. What app do you
2 use? Turnaround on the street. Park at the top of the
3 street across from the red minivan. LMK when you're here."

4 "Here."

5 "Okay."

6 Wednesday, January 19 at 11:13 p.m.

7 "Home. Alive."

8 "Cool. Thoughts?"

9 "Maybes. You?"

10 "What?"

11 "You asked my thoughts."

12 "You didn't answer."

13 "I don't know my thoughts."

14 "Okay. I think I get it."

15 "You have any?"

16 Thursday, January 20, 2022, 12:27 p.m.

17 "Hi. How was your day?"

18 "Good. Yours?"

19 "I am exhausted."

20 "Yeah, that makes two of us."

21 "But I want to drink."

22 "Really? I'll give you Hardy's digits."

23 "Who?"

1 "Hardy from 98.5 midday show. He hangs out at the
2 Currans' sometimes. He's a spokesperson for Recovery
3 Center of America."

4 "Ha-ha. I don't have the problem."

5 "Kidding."

6 "I know."

7 "Good riddance."

8 "Ha-ha."

9 "Stranger. Stranger."

10 "Hey, I was at Hilly all weekend."

11 "Have not heard from you. Ha-ha."

12 I apologize.

13 Sunday, January 23, 9:40 p.m.

14 "Phone works."

15 "Thought you were all set?"

16 "With talking? No."

17 "Hmm. You sure?"

18 Friday, 11:32 p.m.

19 "Hmm, well."

20 Saturday, 11:54 a.m.

21 "John died."

22 THE COURT: All right. Lights, please. Jurors, we're
23 right at 1 o'clock, so we will take our luncheon recess.
24 (Jury out.)

1 THE COURT: I'd like to see counsel just a second about
2 scheduling, please.

3 THE COURT: So how much longer do you think?

4 MR. JACKSON: I'll be through the day, for sure.

5 THE COURT: Okay.

6 MR. JACKSON: I'll go into Monday, I would guess for
7 Mr. Brandon's purposes, and I would guess that I'll go into
8 at least the noon hour on Monday, at least.

9 MR. BRENNAN: We have four witnesses here now. Can I
10 release them?

11 THE COURT: So let's release. That's why I wanted to
12 just be here.

13 MR. BRENNAN: We are now scheduled for witnesses for
14 Monday afternoon so we can reach them. We'll start at
15 10:00 on Monday as well.

16 MR. JACKSON: Right. I will call Mr. Brennan over the
17 weekend as I -- you know, I'm always adjusting my crosses
18 based on what has happened. So I'll call Mr. Brennan over
19 the weekend, and give him new information so he can adjust
20 his witnesses, accordingly.

21 MR. YANNETTI: I would just add, Your Honor, that we've
22 talked about potential stipulations.

23 THE COURT: You're pointing at Mr. Brennan, just for
24 the record.

1 MR. YANNETTI: Yes, yep. When I say we, I'm talking Mr.
2 Brennan and me. We've talked about potential stipulations
3 for the majority of the witnesses that he has here today
4 that I think we may be successful in reaching.

5 MR. BRENNAN: We've been talking for a couple of days.
6 I think Attorney Lally has been speaking to Attorney
7 Yannetti, so I think there's a couple of people we can out.
8 Not most of all my witnesses, most of the witnesses that
9 were here today.

10 MR. YANNETTI: That's what I meant it.

11 MR. BRENNAN: Yeah.

12 THE COURT: Where do we stand scheduling-wise?

13 MR. BRENNAN: We have Dr. Scordi-Bello who is difficult
14 to schedule coming for Monday. I'll see if she can come
15 for the afternoon. She was coming for 9:00. I have --

16 THE COURT: Can she possibly come Tuesday?

17 MR. BRENNAN: I can ask and then we were going to Dr.
18 Wolf, the neurosurgeon.

19 THE COURT: Wednesday.

20 MR. BRENNAN: Wednesday morning at 9:00. Mr. Weschler I
21 was hoping to do Wednesday and then maybe it goes into
22 Thursday. Now it looks like it might get pushed back, and
23 hopefully we can still maintain. Dr. Weschler is not
24 available on Friday. It's his son's graduation so he is

1 very concerned about going into Friday. So I told him that
2 I'd alert the Court that Friday is not an available day.

3 THE COURT: Okay. Could he come back the following
4 Monday, if need be?

5 MR. BRENNAN: I think he could maybe he'll have to.
6 And I was hoping to be done midweek, but it doesn't look
7 like it's going to happen that way.

8 THE COURT: Okay.

9 MR. BRENNAN: And then we have a couple of smaller
10 witnesses to fill in.

11 THE COURT: Okay. I think it looked for a bit like
12 Tuesday maybe was a down day because of how things were
13 going, so it seems like we'll level off, if that's the
14 case.

15 MR. BRENNAN: Yes.

16 THE COURT: All right.

17 MR. BRENNAN: I would bring in Shanon Burgess in
18 before Jud Welcher, so maybe I can bring Shanon Burgess in
19 on Tuesday. I'll try to make some calls, and I'll let you
20 know what we got.

21 THE COURT: Okay. All right. We'll see you back here
22 five minutes of two.

23 (Court in recess at 1:03 p.m.)
24
25

1 (Court in session at 2:00 p.m.)

2 (Defendant is present with counsel.)

3 (Jury in.)

4 THE COURT: All right. Mr. Jackson, whenever you're
5 ready.

6 MR. JACKSON: Thank you, Your Honor.

7 Q (By Mr. Jackson) Sergeant, you had an opportunity,
8 obviously you read them, so now you familiarized yourself
9 with that series of text messages that you seized from
10 Brian Higgins, correct?

11 A Yes.

12 Q Would you -- let me ask -- I'm going to ask the same
13 question again.

14 Would you consider those text messages, as you review
15 them when you received them from Brian Higgins, as being
16 flirtatious or romantic in nature?

17 A I would not characterize them to that extent. Certain
18 parts of them might be, but the total conversation, if you
19 want my opinion, I can provide you with it.

20 Q Was there some flirtation in the text messages that you
21 noted?

22 A There are terms that are used, "You're hot, witty,"
23 stuff like that, you know, talking about banging and
24 hooking up.

1 Q Which -- what word would you use to describe them if
2 not flirtatious?

3 A The totality of the conversation?

4 Q Sure.

5 A My opinion is that it's an angry girlfriend trying to
6 set up a hookup to hurt John.

7 Q To her junk?

8 A To hurt John.

9 Q To hurt John?

10 A Yeah.

11 Q Would you consider the responses from Brian Higgins to
12 be flirtatious in nature?

13 A There are conversation parts that are enticing, maybe a
14 little of advances, but the totality, you know, to put a
15 label on the whole thing, my opinion is that she's trying
16 to get revenge.

17 Q Get revenge?

18 A Yes, get revenge.

19 Q On John?

20 A Yeah.

21 Q For what happened in -- on New Year's Eve?

22 A Yes.

23 Q When you say revenge, you don't mean physical revenge?

24 A Well, emotional revenge. She's trying to hook up with
25 Higgins and then hurt John by cheating on him.

1 Q And in fact, you did note that John O'Keefe was not
2 privy to these text messages, correct?

3 MR. BRENNAN: Objection.

4 THE COURT: I'll allow that. Do you know that?

5 THE WITNESS: I do not, Your Honor, no.

6 Q He's not on these texts, is he?

7 A I don't know if their accounts are synced at this
8 point. I don't know if she's seeing them. I don't know.

9 Q He's not -- his phone -- you know what his phone number
10 is. You guys got his phone, correct?

11 A We do have his device, yes.

12 Q Do you have any evidence that his account was someone -
13 - I don't know even know what that means -- synced with
14 Karen Read's account?

15 A Not from his device, no.

16 Q Okay.

17 A But he could seen the text messages.

18 Q Okay. So there's no evidence that he was synced, that
19 his account was synced with anyone, correct?

20 A I'm sorry. Can you repeat that question.

21 Q There's no evidence --

22 A You were facing the other way. I didn't hear it.

23 Q There's no evidence that his account was synced with
24 any phone?

25 A Not his device that we have, no.

1 Q And you don't have, as you sit here, you don't have any
2 evidence whatsoever that he saw any of those text messages,
3 correct?

4 A We don't have that, but I do not know.

5 Q Okay. So as you sit here, my question is very simple,
6 do you have evidence that John O'Keefe ever saw these text
7 messages?

8 A I do not have evidence that he saw them, no.

9 Q Okay. So would you agree that the text messages show a
10 romantic interest, a romantic interest, from Brian Higgins
11 towards Ms. Read?

12 MR. BRENNAN: Objection.

13 THE COURT: You're going to have to ask that
14 differently.

15 Q In your mind, as you read the text messages, did you
16 determine in your head that there was a romantic interest
17 by Brian Higgins toward Karen Read?

18 A In my mind, I saw the text messages for what they were:
19 Initiated by Karen Read and begin a text message
20 conversation with Brian Higgins.

21 Q And responsive -- sorry -- Brian Higgins was responsive
22 to those text messages, correct?

23 A They did communicate back and forth.

24 Q He was responsive to overtures that Ms. Read made toward
25 him, correct?

1 A Overtures?

2 Q Suggestions. Let's get together for a drink. Come
3 over to my house. I'll come to your house. Things of that
4 nature. Those went back and forth between the two,
5 correct?

6 A Yes, they went back and forth.

7 Q And did you determined that there was an interest by
8 Brian Higgins in Karen Read?

9 A I read that he repeatedly asked her what's her plan,
10 what's her goal, what's her interest, what's her intent.

11 Q Did that show you an interest on his part in her?

12 A I think at one point he said he was confused, I
13 believe, if I'm not mistaken or what's the term he used?
14 He was unsure what she wanted.

15 Q He called her hot?

16 A He did, yes.

17 Q He called her witty?

18 A Right from the rip, yes.

19 Q He said he wanted to spend time with her.

20 A Spend time, yes.

21 Q He was interested in going over her house?

22 A Yes.

23 Q He was interested in her possibly coming over his
24 house?

25 A Yes.

1 Q He told her that he thought she was hot, his words,
2 from the jump, correct?

3 A From the jump.

4 Q How did you interpret that?

5 A From the jump, I would interpret as right from the
6 beginning. Maybe the first time that they saw each other,
7 laid eyes on each other, I mean.

8 Q As a matter fact, he basically said that, didn't he, in
9 the text message from the first time I saw you, I thought
10 you were hot?

11 A Yes.

12 Q He constantly was using phrases, to use your words,
13 phrases interested in knowing how she felt about him,
14 correct?

15 MR. BRENNAN: Objection.

16 THE COURT: Sustained. You need to ask it differently,
17 Mr. Jackson.

18 Q Did you interpret any of his text messages as Brian
19 Higgins being interested in knowing how she felt, what she
20 was thinking about?

21 MR. BRENNAN: Objection.

22 THE COURT: Ask it again.

23 Q When you first saw these text messages and you reviewed
24 them, did you interpret those text messages in your mind,

1 that's what I'm interested, in your mind, as Brian Higgins
2 being interested in knowing how Karen Read felt about him?

3 A I believe his statement indicates that he was
4 interested in seeing what her interest was, what her
5 intention was, and questioned the fact that she's dating a
6 live-in boyfriend, you know, his buddy.

7 Q He used the word ghost several times, correct?

8 A I do recall reading the word ghost.

9 Q How did you interpret that word?

10 MR. BRENNAN: Objection.

11 THE COURT: I'll allow it.

12 A I interpreted ghost in the common slang terminology as
13 to abandoned dead conversation, stopped communicating.

14 Q He indicated that two different times in the text
15 stream, correct?

16 A I know I read the text messages, but reading them out
17 loud to a roomful of people, I might not have remembered
18 how many times the term ghost came through.

19 Q Fair enough.

20 A I was concentrating more on the reading, not on the
21 comprehension of each word.

22 Q Fair enough. But you did note that he used that term
23 in his text messages to her, correct?

24 A I think I recall at least once the term ghost was
25 present in the communication.

1 Q Did you interpret that, in looking for what was in your
2 mind, you interpret that the use by Brian Higgins as
3 showing some level of frustration at her abandonment of the
4 conversation?

5 A Not at all.

6 Q Not at all?

7 A No.

8 Q Have you ever heard the phrase you ghosted me?

9 A Yes.

10 Q How do you interpret that phrase, just generally?

11 A I've heard it communicated between other people. I've
12 never used the term ghosted. I think it's a little after my
13 time in communicating with others, but I take it as you
14 stopped responding to my text messages.

15 Q Do you take that, do you interpret that, or did you
16 interpret that as a positive or a negative comment, you
17 ghosted me.

18 A I interpreted it as a matter of fact, like you stopped
19 talking to me. I never thought about it in a positive or
20 negative connotation. I never gave it any thought.

21 Q As you sit here now, if you do give it thought would
22 you put a positive or negative connotation on the phrase
23 "you ghosted me"?

24 MR. BRENNAN: Objection.

25 THE COURT: Sustained.

1 Q You're aware that based on the text messages that we
2 just saw, there was a series of text messages that went
3 back and forth starting in mid-January and basically ending
4 around January 23, correct?

5 A This chain of text messages began in January 12 and
6 ended January 29.

7 Q Right. I'm going to get to the 29th. But the back-and-
8 forth ended on January 23, did it not?

9 A I don't recall specifically. I can leaf through it and
10 tell you what it is. I know I read the dates out loud,
11 and, again, I was concentrating on reading.

12 Q Do you have the document in front of you?

13 A I do.

14 Q Could you turn to the last page?

15 A Yes, sir.

16 Q I believe it's the last page; it may be the second to
17 last page or something.

18 A (Witness complies.)

19 Q Do you see an entry on January 23rd of 2022, a text
20 message from Brian Higgins, "Thought you were all set?"

21 A Yes.

22 Q And Ms. Read responded, "With talking? No." Correct?

23 A That is a response.

24 Q Mr. Higgins then responds, "Hm," with four M's behind
25 the H, correct?

1 A That's correct.

2 Q And then he responds -- by the way, did Ms. Read
3 respond to the hmm?

4 A No, she did not.

5 Q And then he follows up with, "You sure," with no
6 punctuation, correct?

7 A That's correct.

8 Q Did Ms. Read respond to, "You're sure?"

9 A She did not.

10 Q The next text is on January 29, at 11:32 p.m., correct?
11 I'm sorry, January 28, at 11:32 p.m.; is that right?

12 A Yes, it is.

13 Q Is that from Ms. Read or from Mr. Higgins?

14 A At 11:32 p.m. on Friday, January 28, it is from Mr.

15 Higgins. Q That's all I ask. And now can you tell the
16 jurors what that text is?

17 A "Umm."

18 Q And then the next text immediately after?

19 A "Well."

20 Q So between January 23, and January 28, would you
21 describe Ms. Read's side of the conversation as having
22 ghosted Mr. Higgins?

23 A No, she initiates the conversation. You had me read the
24 second message text message in the chain.

1 Q Between January 29 -- excuse me -- January 23, when
2 that last text message was sent by Brian Higgins --

3 A Mm-hmm.

4 Q -- until January 28, at 11:32, would you describe that
5 as Ms. Read having ghosted Mr. Higgins for those five days?

6 A Strictly looking at the text message communication, and
7 not knowing whether they --

8 Q Correct. I'm not asking you to speculate. I know
9 there's other stuff you want to say. I'm asking you just
10 to read what -- to answer the question I've asked.

11 Based on the texts that are in front of you, Sergeant
12 Bukhenik, does it appear that Ms. Read ghosted, as you
13 defined the term, Mr. Higgins from January 23, until
14 January 28?

15 A One could read it to that -- in that manner, yeah.

16 Q And then on January 28, Sergeant Bukhenik, when Brian
17 Higgins sends, "Um, well," did Ms. Read respond?

18 A No, she did not. They were together at the same
19 location.

20 Q Did she respond to the texts?

21 A On that day?

22 Q Correct.

23 A Not on the text message, no.

1 Q You said they were together. That means that Brian
2 Higgins was together in the same room with Ms. Read when he
3 sent his text, correct?

4 A Yes.

5 Q And she ignored it, didn't she?

6 MR. BRENNAN: Objection.

7 THE COURT: Sustained.

8 Q You also received from Mr. Higgins certain text
9 messages between him, Mr. Higgins, and John O'Keefe
10 himself, correct?

11 A Yes, yes, we did.

12 Q And one those text messages, one of the last text
13 messages to the exchange was, as a matter fact the last
14 text message that was exchanged, was Brian Higgins at 12:20
15 a.m. on January 29, 2022, texting Mr. O'Keefe, "You coming
16 here with three," with question marks, correct?

17 A I would have to take a look at that document. I don't
18 have a memory of it, specifically. I know I reviewed it,
19 but I don't have a memory of the time or the content.

20 MR. JACKSON: May I approach, Your Honor?

21 THE COURT: Yes.

22 A Based on this extraction, I cannot definitively say
23 that this text message was sent on January 29, 2022,
24 because of the file source time and the JPEG being so
25 small, I can't testify to that, sir.

1 MR. JACKSON: May I approach?

2 THE COURT: Yes.

3 MR. JACKSON: Your Honor, Mr. Brennan has kindly
4 offered to stipulate that the "you coming here" text was
5 sent -- I would offer the following stipulation is "you
6 coming here" text was sent on January 29, at 12:20 a.m.
7 from Brian Higgins to John O'Keefe's phone, quote, you
8 coming here three question marks following it.

9 THE COURT: What was the time?

10 MR. JACKSON: Twelve-twenty a.m.

11 May we enter that stipulation with the Court's
12 permission?

13 THE COURT: Sure. So, jurors, you've heard that the
14 lawyers agreed to that fact as true.

15 A Thank you.

16 Q Thank you, Sergeant. So you were aware of the timeline
17 on or about January 29, when, first of all, Karen Read had
18 not responded to a text message from January 23, throughout
19 January 28, and into January 29 -- sorry -- throughout
20 January 28, by 11:32 p.m., she had not responded, correct?

21 A So the text message that she sent to Brian Higgins the
22 last time she sent a text message was on the 23rd.

23 Q Right. And he responded with several text messages to
24 which she did not respond on January 23, correct?

25 A I believe she sent two and he sent three I believe.

1 Q So the answer is yes. There was a text message that
2 she sent -- I'm sorry -- he sent to which she did not
3 respond; is that right on the 23rd?

4 A He was the last one to send the text message on the
5 23rd.

6 Q That was following multiple text messages back and
7 forth between the two of them spanning a couple of weeks,
8 correct?

9 A Yes.

10 Q Then on January 28, 2022, Brian Higgins is at the
11 Waterfall Bar and Grille after 11:00, 11:30 p.m., correct?

12 A He was.

13 Q Karen Read then walks into that same Waterfall Bar and
14 Grille accompanied by her boyfriend, John O'Keefe, correct?

15 A They did.

16 Q Brian Higgins then texted Karen Read, who's standing in
17 the room, "Um, well," correct?

18 A Correct.

19 Q Karen Read ignored that text, correct?

20 MR. BRENNAN: Objection.

21 THE COURT: Sustained.

22 Q Karen Read did not respond to that text?

23 A There's no text.

1 Q Brian Higgins then, a little less than an hour later,
2 texts John directly, "You coming here," with three question
3 marks, correct?

4 A Correct. It's been stipulated.

5 Q That is an accurate timeline of the events that we just
6 talked about, correct?

7 A Yes, sir.

8 Q You're also aware of a call -- your investigation
9 revealed a call between Brian Higgins and Brian Albert at
10 2:22 a.m. on the 29th, correct?

11 MR. BRENNAN: Objection.

12 THE COURT: Sustained.

13 Q Did your investigation reveal a call between 2:20 --
14 I'm sorry -- between Brian Higgins and Brian Albert at 2:22
15 a.m.?

16 MR. BRENNAN: Objection.

17 THE COURT: Sustained.

18 MR. JACKSON: May we approach, Your Honor?

19 THE COURT: Okay.

20 (Sidebar commences:

21 THE COURT: You wanted to approach.

22 MR. JACKSON: I don't understand the nature of the
23 objection or the sustained. How is that possibly an
24 objectionable question?

1 THE COURT: Go ahead, Mr. Brennan, you can make a
2 record.

3 MR. BRENNAN: Your Honor, number one, it is hearsay,
4 and it is an attempt to get in phone records substantively
5 to make an argument implying some type of concerning
6 behavior, which I think the attorney will try to do through
7 his questions. It is irrelevant to *Bowden* that there was a
8 call between Mr. Higgins and Mr. Albert. It has no
9 relevance. It doesn't have any impact on the police
10 investigation focusing on the defendant.

11 THE COURT: So the --

12 MR. BRENNAN: It is intended to try to begin the
13 foundation, improperly through hearsay, of a third-party
14 culprit defense. There is no predicate or basis to
15 establish relevance in this phone call, and the attempt is
16 going to be to suggest that there's some type of conspiracy
17 between Brian Higgins and Brian Albert.

18 If they want these witnesses' testimony, they should
19 call the witnesses. But *Bowden* is not a vehicle to
20 introduce hearsay, totem pole hearsay, and the defense
21 theories of the case through questioning that will sound
22 like argument. This is beyond the concept of *Bowden*.

23 THE COURT: All right. So what I wanted from you when
24 you came up was an offer proof, so go ahead and make it.

1 MR. JACKSON: The offer of proof is this detective
2 either knew or should have known about a call that occurred
3 between Brian Higgins and Brian Albert at 2:22 a.m., which
4 is incredibly suspicious.

5 THE COURT: So there were a lot of phone calls. Was
6 this one long in duration, or what do you have on this
7 call?

8 MR. JACKSON: Twenty-two seconds in duration at 2:22
9 a.m. This was the -- the Court will remember, both Brian
10 Higgins and Brian Albert testified to the series of calls
11 at the last trial. Brian Albert called Brian Higgins. It
12 went to voicemail. It was not picked up. Brian Higgins
13 then returned the phone call 17 seconds later to Brian
14 Albert. That call was picked up. They spoke for 22
15 seconds. They both then ended the call. Both men then
16 later claimed that both of those calls, both of the calls
17 going either, way were butt dials.

18 Brian Albert claimed that he was having sex with his
19 wife, and accidentally butt dialed Brian. Higgins said he
20 has no idea how that butt dial occurred because he keeps
21 his phone on his pedestal.

22 THE COURT: All right. So what you can get in is that
23 this investigator looked at call logs of whatever he did --
24 just none of the "it was picked up," "it was answered," "it

1 was butt dials," none of that comes in because you need the
2 other witnesses for that.

3 But for this officer knowing that these calls were
4 made, and I want exact -- I want you to have the exact
5 times. Have the document with you.

6 MR. JACKSON: Okay.

7 THE COURT: And the times the calls were made from
8 which phone to which phone so they may have to say the
9 number because it's no one saying it's Brian Albert's call.
10 So you have a lot before you get there, and that's what I
11 thought you would do at sidebar. So call from one phone to
12 the other at the time and the duration, call from one phone
13 to the other at the time and the duration.

14 MR. JACKSON: Then I will follow up. Once I do that, I
15 have no problem --

16 THE COURT: Follow up with what?

17 MR. JACKSON: But that's not the -- that ain't the end
18 of the --

19 THE COURT: Go ahead.

20 MR. JACKSON: -- it's not --

21 THE COURT: Maybe with this witness. So tell me what's
22 next, what you think is next.

23 MR. JACKSON: Whether he was aware or became aware or
24 did any investigation surrounding their explanation for the
25 call which was it was mutual butt dials.

1 THE COURT: So you don't --

2 MR. JACKSON: Following that they both destroyed their
3 phones within the same month of each other.

4 THE COURT: Okay. So I'm sticking with my ruling. You
5 can only do what I said. You need more witnesses for the
6 rest of it. That's my ruling, Mr. Jackson. You can do
7 those two things.

8 MR. BRENNAN: May I ask one more thing?

9 If this is being introduced for the limited purpose of
10 *Bowden*, in addition to those limitations, the time when he
11 learned this is important.

12 THE COURT: It has to be before. It can't be -- go
13 ahead.

14 MR. BRENNAN: They should ask him his state of mind,
15 when did you learn about this call, because it had came a
16 year later, then it wasn't part of his thinking when he
17 pursued the charges and the timing is also relevant.

18 THE COURT: That's right. As to *Bowden* it is.

19 MR. JACKSON: Your Honor, there is no time frame for
20 *Bowden*. There is no time frame for which the light switch
21 is turned off.

22 THE COURT: So certainly after the last trial, it's too
23 late as far as I'm concerned or at the last trial. Get a
24 time frame from him.

25 end of sidebar.)

1 MR. JACKSON: May I have just a moment, Your Honor?

2 THE COURT: Sure.

3 Q Sergeant Bukhenik, did you become aware during the
4 course of your investigation, to narrow the time frame,
5 during the course of your investigation, that there were
6 calls between Brian Higgins and Brian Albert at
7 approximately 2:22 a.m. on the 29th?

8 A During the course of my investigation, I was not aware
9 of that. If you have a document that I can see, I can tell
10 you if I've ever seen it before.

11 Q Did you seek to secure Brian Albert's cell phone to
12 determine what calls he did and didn't make?

13 A Oh, no.

14 Q On January 29th or January 28?

15 A No, we did not.

16 Q Would, in your experience, would a phone extraction,
17 cell phone extraction of Brian Albert's phone, have
18 revealed phone calls made and received in the time frame
19 that we're talking about, the 28th and the 29th of January,
20 2022?

21 A If a phone is extracted, the records of phone calls
22 being made and received would show those records.

23 Q You did receive information from Brian Higgins' phone,
24 specifically the texts that he claimed he pulled off his
25 phone and gave to you, correct?

1 A We received text messages that I read today that Brian
2 Higgins provided from his phone.

3 Q Did you seek to secure his actual phone for a forensic
4 download or forensic mirror image to get the actual calls
5 made and received, text messages made and received from his
6 phone?

7 A No, we did not.

8 Q At some point, this is just a yes or no, at some point,
9 did you become aware of a call between Brian Higgins and
10 Brian Albert at 2:22 a.m. on the night of -- on the morning
11 of the 29th? Just yes or no.

12 A No.

13 Q As you sit here today, this is new information to you.
14 This is -- let me rephrase that. This is unknown
15 information to you. You do not have any information about
16 that.

17 MR. BRENNAN: Objection.

18 THE COURT: Sustained. We need a timeframe, Mr.
19 Jackson.

20 MR. JACKSON: I realize that, Judge. That's why I'm
21 asking it this way.

22 Q As you sit here, are you aware of a phone call between
23 Brian Albert and Brian Higgins at 2:22 a.m. on January 29,
24 2022?

1 A You just shared that with me. I have no memory or
2 record of seeing that it actually took place. I do not
3 know.

4 Q Okay. So you never heard that before. That's what I
5 was getting to, you never heard that before?

6 A No.

7 Q Okay. You indicated that you did not seek to secure
8 Brian Albert's phone to do a phone extraction at any time,
9 correct?

10 A We did not try to get Brian Albert's phone for any
11 reason whatsoever.

12 Q Did you become aware during the course of your
13 investigation that Brian Albert destroyed his phone?

14 MR. BRENNAN: I'd like to be seen. Objection.

15 THE COURT: Jurors, disregard that question. Come over
16 to sidebar, please.

17 (Sidebar commences:

18 MR. BRENNAN: Your Honor, this is deliberate. It's
19 purposeful. He knows the rulings and the parameters. You
20 just told him. This is a deliberate attempt to unfairly
21 prejudice this jury. It's been going on the entire trial.
22 Shouting out a question that you know is objectionable,
23 especially after the Court had just limited the scope, is a
24 tactical decision by an attorney. It's an attempt to get
25 information in front of the jury that can't be cured by any

1 instruction. At some point, it has to stop. I have to get
2 up and object to questions I know are coming before they
3 even start --

4 MR. YANNETTI: Can Mr. Brennan please lower his voice?

5 MR. BRENNAN: No. Before I know -- before they even
6 start, I know it's an attempt to vehicle inappropriate,
7 inflammatory information in front of this jury. You just
8 made a ruling, and so now I'm required to ask for sidebars.
9 It looks like I'm protecting or hiding something. It's
10 deliberately purposeful. It's unfair.

11 MR. JACKSON: That is completely -- a complete
12 misinterpretation of the facts.

13 The Court told me that I could only get into the 2:22
14 a.m. call with the facts and data of the call, exactly what
15 time it was received, exactly what time it was made, how
16 long it lasted in duration. I asked the questions and this
17 witness said specifically, I'm unaware of the call. I
18 abandoned that line of questioning altogether. This
19 information is absolutely relevant. In September of 2022,
20 Brian Higgins destroyed his phone. In September of 2022,
21 Brian Albert destroyed his phone. Michael Proctor was the
22 person who supplied both of them, both of them, with the
23 Court's order to preserve their phones, and it was
24 subsequent to that, that they both destroyed their phones.
25 This is absolutely relevant information. It's absolutely

1 goes to *Bowden*, and I take offense at Mr. Brennan acting
2 like I was purposely trying to do something out of bounds.
3 This is exactly what our defense is built on.

4 MR. BRENNAN: That's not my problem.

5 THE COURT: So, please. I disagree, Mr. Jackson. I
6 think my ruling at sidebar was very clear. Take a number,
7 one number to another number, and when the calls were made.

8 MR. JACKSON: And he said he's unaware of it, so I
9 didn't need to do it. I abandoned the line of questioning.

10 THE COURT: Okay. This is completely prohibited what
11 you just did through this witness and do not do it again.

12 MR. JACKSON: Your Honor, this goes to the mindset of
13 the officer. This detective did not follow up on the fact
14 that two individuals, who should have been suspects in this
15 case, both of them should have been suspects in this case,
16 two individuals within a week of each other destroyed their
17 phones, one of whom took the SIM card out of his phone
18 destroyed it on a military base.

19 THE COURT: So when you get that in through one of
20 those witnesses, you can do it.

21 MR. JACKSON: I do not have --

22 THE COURT: I'm prohibiting it now, Mr. Jackson. Your
23 rights are saved.

24 MR. JACKSON: Your Honor, I need to finish this record.

25 THE COURT: Go ahead.

1 MR. JACKSON: I do not need to call Brian Albert and
2 Brian Higgins to find out if this officer was aware of it.
3 If he says he wasn't aware of it, I'll then make my
4 decision whether or not to call Brian Albert and Brian
5 Higgins. If he says, yes, I was aware of it, and I did
6 nothing to investigate it further, that's the heart of
7 Bowden. It doesn't get any more defense-oriented than
8 that. I am trying to defend a murder charge.

9 THE COURT: Do you have knowledge that he does not have
10 it?

11 MR. JACKSON: I don't know.

12 THE COURT: Okay. So --

13 MR. JACKSON: I know that Proctor knew.

14 THE COURT: Okay. So we can get in through Proctor.

15 MR. JACKSON: I'm not going to be forced to call
16 Proctor. He is acting as a shill for Proctor. Anything
17 that I could ask Proctor; I should be able to ask this
18 witness. He's Proctor's supervisor. He's his surrogate.
19 This is foundational. It's fundamental, Judge.

20 THE COURT: And the foundation has not been met through
21 this witness. You cannot do this now through this witness.
22 That's my ruling. Your rights are saved.

23 MR. JACKSON: Can I ask him if he knows where those
24 phones are?

1 THE COURT: No, not at this time, Mr. Jackson, not
2 based on any foundation that's been laid.
3 end of sidebar.)

4 MR. JACKSON: May I inquire?

5 THE COURT: Yes.

6 Q Did you become aware of a call that was made by Brian
7 Higgins at 1:35 a.m. while at Canton Police Department?

8 A I am not aware of that.

9 Q So you did nothing in terms of investigating any phone
10 call that Brian Higgins did or didn't make while at Canton
11 PD on the night or early morning hours of January 29, 2022?

12 A We never sought to get Brian Higgins' phone. He was
13 not looked as an individual that we would need to get his
14 information for the parameters at that point.

15 Q Even after you received and read all of those text
16 messages between him and Karen Read?

17 A Correct.

18 Q And even after you became aware of the timeline you
19 just walked through starting on January 23, going all the
20 way into January 28 and into January 29, you did nothing to
21 investigate that?

22 A We had the information that we had. We did not need to
23 get his phone.

24 Q And the information that you had came from Brian
25 Higgins himself, not from the forensic extraction, correct?

1 A The extraction that Brian Higgins provided was a
2 forensics extraction of his communications with Mr. O'Keefe
3 and Karen Read. We had Mr. O'Keefe's phone, and we had
4 Karen Read's phone so we can verify and confirm that those
5 text message communications were accurate, unredacted, not
6 deleted, and were a true representation of what their
7 communications consisted of.

8 Q And that was a representation made by whom?

9 A The totality of it.

10 Q That was a representation made by whom? The person
11 that made that representation to you that it was fair and
12 accurate, who made that representation?

13 A It wasn't a person. It was the extractions between the
14 three devices.

15 Q Well, an extraction that you were handed on a device by
16 someone, correct?

17 A No, I said that we had all three devices, and as I told
18 Mr. Higgins in our interview together, I said, "Brian, we
19 have those two devices."

20 Q Meaning their John's and Karen's?

21 A Correct.

22 Q If there's anything deleted or altered in any way, we
23 will have proof of it. So please make sure that we
24 understand the magnitude of the situation. We're

1 investigating a homicide. It needs to be accurate and it
2 was.

3 Q And you trusted that coming from Brian Higgins rather
4 than simply getting an extraction from his phone, correct?

5 A I trusted him, yes.

6 Q Okay.

7 A Because we trust and verify, and after verifying, the
8 extractions are correct.

9 Q And following that verification of the text messages,
10 did that raise any suspicion in your mind about any
11 possible motives Brian Higgins may have relative to John
12 O'Keefe?

13 A Suspicions of motives, is that your question?

14 Q Correct.

15 A No, the evidence spoke for itself. The honesty,
16 cooperation of all the witnesses, and corroborating,
17 supporting facts spoke for themselves, so I was not
18 suspicious of his motives. The conversation was documented
19 over text message. It spoke for itself.

20 Q Supporting documentation including a text message --
21 the text message at 2:20 a.m. just minutes before John
22 O'Keefe arrived at 34 Fairview from Brian Higgins, correct,
23 at 12:20 a.m.? That's one of the factors, correct?

24 A That's one of the factors, yes. That was part of the
25 entire investigation, yes.

1 Q And one of the other factors was John O'Keefe's body
2 was found in the lawn at 34 Fairview just feet, just feet
3 from the front door, side door and the garage door,
4 correct?

5 A That is where Mr. O'Keefe was found, on the left side
6 of the lawn, yes.

7 Q And one of the factors was you originally said that it
8 appeared that it may be an incident involving a cocktail
9 glass to the face, initially at least?

10 A Based on verbal reports initially, that was a
11 possibility. Again, it was before we spoke to --

12 Q I realize it's before a lot of other things happened,
13 but initially. That's what I'm asking, initially.

14 A Yes, initially there was a possibility.

15 Q And when you saw John O'Keefe at the hospital, he had a
16 big contusion above his right eye, correct?

17 A That is not correct.

18 Q He had a big egg just above his right eye?

19 A That is not correct.

20 Q You did not see that?

21 A His eyelids were swollen, not about his eye, so it
22 wasn't a contusion.

23 Q If two different paramedics said that they saw what
24 they described as an egg above his right eye.

25 Well, let me ask you it differently.

1 Did you speak to any of the paramedics?

2 A Yes.

3 Q Did they describe an egg above his right eye?

4 A I'd have to see a report to actually -- it's described
5 as an egg above his right eye.

6 Q Did you notice laceration at his right eye?

7 A His right eyelid did have a tiny, tiny laceration.

8 Q Did you see a small laceration above his nostril on his
9 nose?

10 A Tiny, tiny laceration, yes.

11 Q You noted that he didn't have any broken bones or
12 fractures other than to his skull?

13 A I did not know that. I didn't conduct x-rays or
14 conduct the autopsy. I'm not a medical professional.

15 Q You didn't ask the doctors at the time when you visited
16 him and saw him in the hospital whether or not he had
17 broken bones or fractures?

18 A I don't believe they reported that.

19 Q And another factor that you considered was the fact
20 that in the early morning hours of January 29, 2022, around
21 6:00 a.m., 7:00 a.m., or 8:00 a.m. there were no taillight
22 pieces found at that location, zero? Did you consider
23 that?

24 A At what point?

1 Q On January 29, between let's say 6:00 a.m., 7:00 a.m.,
2 8:00 a.m., 9:00 a.m., did you consider that?

3 A Once we learned that there was damage to the
4 defendant's right rear taillight --

5 Q Sergeant, I'm asking --

6 A I could only consider at that point because I didn't
7 know what I didn't know.

8 Q Right.

9 A We don't know what we don't know. We work with the
10 evidence that's presented and we developed the
11 investigation.

12 Q And the evidence that was presented at that time,
13 Sergeant, was a snowblower -- sorry -- a leaf blower was
14 used to search the area, the exact area that you described
15 for this jury, as being the area around the fire hydrant,
16 the flagpole, where John's body was, and no taillight
17 material was found at all in the first searches. You're
18 aware of that, yes or no?

19 A Yes.

20 Q As a matter fact, you're also aware that no taillight
21 material was found until after, after that SUV was in
22 Massachusetts State Police custody and sitting at the sally
23 port in Canton, correct?

1 A I believe the first taillight piece was found after it
2 was in our custody I. Don't know the exact time. I'd have
3 to see.

4 Q When you talked to Brian Albert -- I'm sorry. When you
5 talked to Brian Higgins, Brian Higgins -- did you ask Brian
6 Higgins about actually seeing John's body when he left 34
7 Fairview and headed over to Canton PD?

8 A Yes, I did.

9 Q You knew that at that time, say 1 o'clock, 1:30 in the
10 morning, there was about 2/10 of an inch and a dusting of
11 snow, correct? It was very light.

12 A At that point in time, there was a coating. I cannot
13 speak to the amount of snow that was on the ground.

14 Q But Brian Higgins told you in that interview that he
15 didn't see the body because it was hidden by a snowbank,
16 didn't he?

17 MR. BRENNAN: Objection.

18 THE COURT: Did he say that to you?

19 THE WITNESS: I don't have a memory of that, Your
20 Honor.

21 MR. JACKSON: May I approach, Your Honor?

22 THE COURT: Yes.

23 Q Take a look at page 3 of the highlighted portion, if
24 you wouldn't mind.

25 MR. JACKSON: May I approach?

1 THE COURT: Yes.

2 Q Does that refresh your recollection that Brian Higgins
3 said something about a snowbank at the time when he left 34
4 Fairview?

5 A He stated the reason he did not pay attention to the
6 grass was he was concerned with his snowplow on his vehicle
7 and was not paying attention to anything over the snowbank,
8 just with the plow in front of him as he operated the
9 vehicle.

10 Q And of course, you knew at the time, as a detective and
11 an investigator, you knew at the time that with a dusting
12 of snow, there is no snowbank, correct?

13 A He mentioned plowing the driveway for the Alberts when
14 he arrived. So there might've been a coating and he was
15 just plowing it and then creating a line. I cannot speak
16 to how much snow was actually being plowed with the dusting
17 that was on the ground. So there might've been a small
18 snowbank. Again, he was referencing it. He was not paying
19 attention to anything behind the snowbank.

20 Q He talked about the snowbank being in the yard,
21 actually he said the lawn --

22 THE COURT REPORTER: Mr. Jackson, I can't hear you.

23 MR. JACKSON: Sorry.

24 Q He talked about the snowbank being in the lawn, not the
25 driveway, correct, that's how he described it?

1 A He said he was not paying attention anything past the
2 snowbank being the lawn.

3 Q And did not pay too much attention to the lawn area
4 behind the snowbank, correct?

5 A Correct. Off to that area.

6 Q Did that raise any suspicions in your mind that Brian
7 Higgins may be -- may have been being less than truthful
8 with you?

9 A No.

10 Q Getting back to the Waterfall Bar and Grille, you were
11 also aware that Brian Albert was at the Waterfall, correct?

12 A At one point, yes, we learned that.

13 Q And you knew that Brian Albert and Brian Higgins were
14 friends with each other; is that right?

15 A We learned that as well, yes.

16 Q You already indicated that you did not seek Brian
17 Higgins's phone records. I may have asked you this, if I
18 did, I apologize. Did you seek Brian Albert's phone records
19 for an extraction from his phone?

20 A No, we didn't.

21 Q Did you get the entirety of the Waterfall video? Did
22 you review the entirety of the Waterfall video when you
23 first obtained it? Or have you looked at it since?

24 A I have at one point reviewed the entire video, yes.

1 MR. JACKSON: Your Honor, with the Court's permission,
2 this has already been marked as evidence, but I cannot --
3 it's not my notes. Exhibit 22 I'm told.

4 THE COURT: Okay.

5 MR. JACKSON: May we present for the jurors?

6 THE COURT: Yes.

7 MR. JACKSON: I'm going to ask you to advance this to
8 runtime at 8:30 to about 11:08. So a couple minutes with
9 the Court's permission.

10 THE COURT: Yes.

11 (Video played.)

12 MR. JACKSON: Can we pause it briefly, Mr. Wolk? May I
13 approach the witness?

14 THE COURT: Yes.

15 Q Can you please, if you can, point to the jurors whether
16 or not you see Brian Higgins in that video?

17 A I'll use the screen in front of me for initial
18 indication. I believe, I believe, that that is Brian
19 Higgins right there.

20 Q Can you do me a favor, just so everybody has a
21 perspective, can you also -- okay.

22 A There you go. Right there. I believe that is Brian
23 Higgins.

24 Q Okay. Do you see Brian Albert in that video?

1 A I can't tell you exactly. Maybe if you run it a little
2 bit longer, or zoom it in, I could possibly tell you, but
3 from right here right now, I cannot.

4 Q Sergeant, why don't we play this for a couple of
5 seconds, and if you don't, if you get to a point where you
6 recognize the person that you know as Brian Albert, could
7 you just tell me to stop and I'll pause it?

8 A Absolutely.

9 MR. JACKSON: Let's go ahead and play it with the
10 Court's permission.

11 THE COURT: Sure.

12 (Video played.)

13 Q Can you pause that?

14 A Stop.

15 Q Go ahead, Sergeant.

16 A Brian Albert is the individual right there
17 (indicating).

18 Q Can you describe what the -- what Brian Albert and --

19 MR. JACKSON: By the way, for the record, Your Honor,
20 the witness has indicated the person toward the left right
21 under the 29 on the Chyron at the top, the 29th.

22 THE COURT: Yes.

23 Q Can you describe what you see the two individuals,
24 Brian Albert and Brian Higgins doing in this scene?

1 A It looks like they are facing each other, possibly
2 squaring off in a stance.

3 MR. JACKSON: Can we go ahead and play this forward,
4 please.

5 (Video played.)

6 MR. JACKSON: And pause it.

7 Q Sergeant, did you see either of the two men or both of
8 them squaring off in what you would consider to be a
9 fighting stance? A I guess it could be considered that.
10 It looked more like a -- like roughhousing, a couple of
11 buddies messing around.

12 Q I'm not suggesting they were actually fighting, but a
13 fighting stance.

14 A Yeah, they were not fighting.

15 MR. JACKSON: Go ahead and play.

16 (Video played.)

17 MR. JACKSON: Can you pause it?

18 Q Sergeant, do you happen to see in this shot, just for
19 orientation, do you see my client, Ms. Read?

20 A I'm sorry. I was paying attention to the two
21 gentlemen.

22 Q That's fair. That's kind of an unfair question. Could
23 you -- if we played this a few more seconds, could you look
24 around, scan around and tell me if you see someone that you
25 believe is my client?

1 A Yes, I will try.

2 MR. JACKSON: Let's go ahead and play. '

3 (Video played.)

4 MR. JACKSON: Can you pause it?

5 Q Do you see anybody that looks like Ms. Read?

6 A Yes, I believe she's in the top left -- excuse me --
7 top right corner of the frame talking to Mr. O'Keefe, and I
8 believe two other gentlemen.

9 Q Long hair?

10 A On your client?

11 Q Correct.

12 A Yes.

13 Q Okay.

14 MR. JACKSON: Let's go and play this up to 11:08,
15 please.

16 (Video played.)

17 MR. JACKSON: Is that to 11:08? Thank you. We can take
18 that one down, briefly.

19 Q This is --

20 MR. JACKSON: If we could have the lights. Thank you.

21 Q Sergeant, this is at the Waterfall just before midnight
22 on January 29, 2022, correct? What you just saw?

23 A That footage is from the Waterfall just before midnight
24 on the 28th.

25 Q I'm sorry. My mistake. On January 28, 2022 --

1 A Correct.

2 Q -- going into midnight January 29, 2022?

3 A Yes, sir.

4 Q All right. This would be just minutes before everyone
5 headed out of the Waterfall and went back towards Fairview,
6 correct?

7 A Not everyone. The band didn't go to the Fairview.

8 Q Well, obviously I'm not talking about the band or the
9 bartenders. I'm talking about Brian Albert, Brian Higgins,
10 Jen McCabe, Matt McCabe, John O'Keefe, Karen Read, those
11 folks, correct?

12 A It's before some of those individuals left the bar and
13 headed to 34 Fairview.

14 MR. JACKSON: If we could approach to runtime 1635 to
15 1732.

16 Q While you're queuing that up, did you see after I asked
17 you the first initial time about the stance that the two
18 men were taking - Brian Albert and Brian Higgins, did you
19 see them continue to take what could be reasonably
20 described as a fighting stance toward each other even in
21 jest?

22 A They were squaring off and roughhousing, yeah.

23 Q Okay. What does squaring off mean?

24 A Facing an opponent, like wrestling or a martial art, I
25 guess.

1 Q Hands up?

2 A Yes, yes. Squaring off.

3 Q You are former military?

4 A Yes.

5 Q And current law enforcement?

6 A Yes.

7 Q Is hand-to-hand fighting taught in both military and
8 paramilitary organizations like law enforcement?

9 A I had hand-to-hand combat training in the Marine Corps.
10 I had defensive tactics in law enforcement capacity in the
11 Marine Corps, federal, local, and state academies.

12 Q Are you aware that Brian Albert is former military?

13 MR. BRENNAN: Objection.

14 THE COURT: I'll allow it.

15 A I am aware that Brian Albert is former military.

16 Q And Brian Albert was also a Boston police officer?

17 A I am aware that he was.

18 Q Are you aware that Brian Higgins was a -- was former
19 military and a combat veteran?

20 A Now I am, yes.

21 Q And are you aware that Brian Higgins, at the time this
22 was taken, this video was taken, was also a federal law
23 enforcement agent?

24 A I was aware, yes.

1 MR. JACKSON: If we could go ahead and run at 1635 to
2 1722 with the Court's permission?

3 THE COURT: Okay.

4 (Video played.)

5 MR. JACKSON: If you could pause it.

6 Q Can you describe for the jurors what you see Brian
7 Albert and Brian Higgins doing in this footage?

8 A Based on my understanding, it looks like he's given him
9 the Heimlich maneuver or abdominal thrust, I guess. I
10 don't know what he's doing.

11 Q Brian Albert has got his hands around Brian Higgins,
12 correct?

13 A That's what it looks like from here. I have no idea
14 what he's doing.

15 Q Could it be described as wrestling or grappling?

16 A I guess, yes.

17 MR. JACKSON: Let's go ahead and play.

18 (Video played.)

19 MR. JACKSON: Thank you. If we can take that down.

20 Q During the course of reviewing this video or the
21 entirety of the video, not just the clips that you just
22 reviewed, did you see where John O'Keefe was, generally
23 speaking, relative to Brian Higgins and Brian Albert?

24 A Throughout the entire time?

1 Q He wasn't standing still, I understand that, but
2 generally, was he standing with them or was he closest to
3 the bar in the back of the video?

4 A I believe after Mr. O'Keefe arrived and embraced a few
5 people with hugs, I guess, if I had to estimate, most of
6 the time he was on the other side of the table which would
7 be closest to the bar area.

8 Q And have you saw Mr. O'Keefe walk in and greet
9 everybody with salutations, did you ever see him
10 interacting with Brian Higgins and Brian Albert throughout
11 the evening again, on this video?

12 A On this video, I did not, no.

13 MR. JACKSON: I'd like to play runtime -- one more
14 clip, Your Honor. Runtime 1915 to 1957.

15 THE COURT: Okay.

16 MR. JACKSON: About 45 seconds or 50 seconds.

17 (Video played.)

18 MR. JACKSON: Can you pause it?

19 Q Just to orient jurors, can you see any individuals that
20 you earlier described - Brian Higgins, Brian Albert, John
21 O'Keefe, Karen Read, any of those individuals in this clip
22 as yet, or do we need to play it a little further?

23 A I would need to play it a little bit further, please.

24 MR. JACKSON: Is it possible, with the Court's
25 permission, to zoom in on the upper portion of the video?

1 THE COURT: Okay.

2 (Video played.)

3 MR. JACKSON: If you could center that just a little
4 bit towards the right. Other way. There we go. Thank
5 you. If we could go ahead and play that from 1915 to about
6 1957.

7 (Video played.)

8 MR. JACKSON: Pause it.

9 Q Do you recognize the three people center screen now?

10 A I really can't make it out. I would have to be
11 assuming.

12 Q I don't want you to assume.

13 A Or guessing. I can't make it out to identify each
14 individual.

15 MR. JACKSON: Let's play it forward if you can one more
16 time.

17 (Video played.)

18 Q At this point --

19 MR. JACKSON: Go ahead and pause it.

20 Q At this point, can you make out any individuals?

21 A Yes.

22 Q Okay.

23 A At this point, I can say that that looks like Brian
24 Higgins in the middle of the three gentlemen.

25 Q What is he wearing?

1 A It looks like a hooded sweatshirt.

2 Q Okay. And the person to his -- sorry. Let's do it
3 from your perspective and the jurors' perspective.

4 The person to the left of Brian Higgins?

5 A I believe that's Brian Albert.

6 Q And the person to the right of Brian Higgins?

7 A From my perspective?

8 Q Yes, sir.

9 A I believe that's Chris Albert, but I'm not positive.

10 MR. JACKSON: Okay. Let's go ahead and play.

11 (Video played.)

12 MR. JACKSON: Stop.

13 Q Did you see Brian Higgins just do something?

14 A I was not paying attention to his gesture. We have to
15 replay that, please.

16 Q Does it appear he's looking in a particular direction?

17 A He is looking in a particular direction based on that
18 frame, yes.

19 Q Is that toward the bar?

20 A It's in that direction. I don't know exactly what he's
21 looking -- whether he's looking at the bar or to the right
22 of the bar, I can't tell from this.

23 Q Okay. Okay. And John O'Keefe, you indicated earlier
24 that John O'Keefe, that's where you saw him most of the
25 video toward the bar area or to the right of the bar?

1 A If you scroll he -- push the screen to the right, I can
2 tell you where Mr. O'Keefe is.

3 MR. JACKSON: With the Court's permission?

4 THE COURT: Yes.

5 Q Do you see Mr. O'Keefe in that group of people?

6 A I can't not -- I cannot make him out. Could you play
7 the video? Maybe he's behind an individual?

8 MR. JACKSON: Let's go back to -- with the Court's
9 permission, I'd like to go back to the full video.

10 THE COURT: Okay.

11 MR. JACKSON: And let's play it from here.

12 (Video played.)

13 MR. JACKSON: Pause it.

14 Q Could you see what was happening with Brian Higgins?

15 A He was gesturing to someone. I was trying to see Mr.
16 O'Keefe. We were talking about Mr. O'Keefe --

17 Q Understood.

18 A So I apologize.

19 Q Understood.

20 MR. JACKSON: With the Court's permission, can I play
21 the video one more time with a focus on the other side of
22 the bar?

23 THE COURT: Okay.

24 MR. JACKSON: Thank you. Last time.

25 A Can you tell me who to focus on, please?

1 Q Yes.

2 A So I'm not looking for the wrong person?

3 Q Sure, sure.

4 A Thank you.

5 (Video played.)

6 MR. JACKSON: Pause it.

7 Q Do you see John O'Keefe there?

8 A Yes, I do.

9 Q Okay. Can you point to where he is for the jurors,
10 please, on both televisions?

11 A Mr. O'Keefe is right there wearing the sweatshirt,
12 multi-toned gray sweatshirt with a hood in it and his hat.

13 Q And the other TV.

14 A Okay. He appears to be at the bar paying the bill.

15 Q With this perspective, could we just go ahead and play
16 that another 30 or 45 seconds one more time and please
17 focus on Mr. O'Keefe.

18 (Video played.)

19 MR. JACKSON: Pause it.

20 Q Do you see where Mr. O'Keefe was looking at this point?

21 A Yes.

22 Q Where is he looking, what direction?

23 A Well, from this vantage point it looks like he's
24 looking to the left on the screen at the individual he
25 appears to be conversing with.

1 MR. JACKSON: Okay. Go ahead and play it.

2 (Video played.)

3 MR. JACKSON: Pause it.

4 Q And what about now?

5 A Same individual.

6 Q Okay.

7 MR. JACKSON: Go ahead.

8 A Still engaged in a conversation.

9 (Video played.)

10 MR. JACKSON: Pause it.

11 Q And what about now?

12 A He's taking a sip of beer.

13 Q Right. Which direction is he looking in?

14 A In the same direction.

15 Q Okay.

16 MR. JACKSON: Go ahead and play.

17 (Video played.)

18 MR. JACKSON: And go ahead and pause it. We can go
19 back out to the full screen.

20 Q At this point, does it appear in the video that Brian
21 Higgins, Brian Albert, Chris Albert and Colin left the bar?

22 A Someone is standing across the table from Mr. O'Keefe
23 to his rear. I don't know who that is so I can't testify
24 to the others.

1 Q Given this perspective, now that you've seen both of
2 them zoomed, do you have an opinion as to whether or not it
3 appeared that Mr. Higgins was gesturing towards John
4 O'Keefe just before he left the bar?

5 A Given this perspective, he might've been. I don't know
6 who was gesturing.

7 Q Okay.

8 MR. JACKSON: We can have the lights up.

9 Q I want to change gears for a second. Let me ask you one
10 more series of questions, if I could, Sergeant.

11 What we've just seen was literally Brian Albert, Brian
12 Higgins leaving the Waterfall to go to a different
13 location. What was the location they were heading to based
14 on your investigation?

15 A They were heading to 34 Fairview Road.

16 Q And shortly thereafter, who else followed to go to 34
17 Fairview?

18 A I'm sorry. You said Chris Albert?

19 Q No, I didn't. Nope.

20 A Brian Albert, Brian Higgins, they went to 34 Fairview,
21 and then Mr. O'Keefe also traveled there.

22 Q Thank you. I want to shift gears, if I could, to
23 another video. It's a -- did you review certain Ring
24 videos specifically relative to One Meadows, the outdoor
25 Ring video servicing the carport area?

1 A Yes, I have reviewed those videos.

2 MR. JACKSON: If we could, Your Honor? May I have just
3 a moment?

4 Q This has previously been marked as 12A.

5 THE COURT: Okay.

6 MR. JACKSON: If we could, with the Court's permission,
7 zoom in on the Chevy Traverse, the upper left-hand of the
8 vehicle in the upper left-hand corner of the video.

9 THE COURT: Okay.

10 (Video played.)

11 MR. JACKSON: Pause it. Let's go ahead and zoom in on
12 the upper left-hand corner. Go ahead. Play.

13 (Video played.)

14 MR. JACKSON: Pause.

15 Q Did you see anything happen with the right -- I'm sorry
16 -- the left rear tire of the other car in the driveway?

17 A Which car?

18 Q The highlighted portion, the parked car, which is the
19 left rear tire that is zoomed in on?

20 A I wasn't paying attention to the tire. Can you play it
21 again, please?

22 MR. JACKSON: With the Court's permission?

23 THE COURT: Okay.

24 MR. JACKSON: Let's try that one more time.

25 (Video played.)

1 MR. JACKSON: Pause it. We can take that down.

2 Q Did you see anything happen with that left rear tire of
3 the Chevy Traverse?

4 A Based on that video, it appears there might've been
5 movement there.

6 Q Last year -- and you've seen this video several times,
7 correct?

8 A I have.

9 Q You saw it during the course of your investigation, not
10 just in the course of proceedings, correct?

11 A Right.

12 Q Last year, you indicated that you observed the vehicle,
13 Ms. Read's vehicle, come near Mr. O'Keefe's car.

14 Which one in that video was Mr. O'Keefe's car?

15 A The Chevy Traverse.

16 Q And that would be the car that was parked and static,
17 not moving, correct?

18 A Correct.

19 Q Having seen this, do you still believe that the SUV
20 came near the Chevy Traverse, and you believe it struck the
21 Chevy Traverse?

22 A With the clarity of that video, there is a lot of
23 movement in the shot. Not with great certainty. It
24 appeared that there was movement of the tire, but I cannot
25 say with 100 percent certainty there was movement.

1 Q You can't say with 100 percent certainty that that tire
2 literally shifted and wiggled upon some sort of an impact?

3 A Based on the video, it appeared to have been movement.

4 Q Okay. You had this video for the first three years of
5 your investigation. You have this video very early on,
6 correct?

7 A That's correct.

8 Q And for the first several years of your investigation,
9 did you either deny -- well, let me ask it this way.

10 Was it your assessment that the SUV did not contact
11 that Chevy Traverse?

12 A My assessment, with the totality of it all, was that
13 based on the video, there was no damage that occurred to
14 either vehicle at the point in time.

15 Q That wasn't my question, Sergeant. My question was,
16 was your assessment that there was no contact between the
17 two vehicles, is that what you assessed during the course
18 of your investigation?

19 A I did not assess that there was no contact, no.

20 Q Even as recently as last year, you testified in another
21 proceeding that the SUV came close to the Chevy Traverse,
22 correct?

23 A Yes, I said there's a lot of movement in that shot.
24 It's difficult to tell. If there was more for me to

1 observe and push that certainty level up, I would have
2 testified differently.

3 Q As you seen the video enhanced, zoomed in on, do you
4 wish to amend that testimony from last year?

5 MR. BRENNAN: Objection.

6 THE COURT: Ask it differently.

7 MR. JACKSON: Sure.

8 Q Given what you've just seen, what is your testimony now
9 about whether or not that SUV struck the Chevy Traverse?

10 A There is movement of the tire.

11 Q Well, I know there's movement of the tire. It could be
12 an earthquake. It could be someone standing there pushing
13 the car.

14 I'm asking you, based on what you just saw in this
15 video, do you believe that the SUV struck the Chevy
16 Traverse?

17 A Logically speaking, the two vehicles had to have come
18 into contact for the tire to move.

19 Q They had to have collided, correct?

20 A At a slow speed, yes.

21 Q Which area of the SUV collided with the Chevy Traverse?
22 The front, the rear?

23 A It appears from the video it's the right rear area of
24 the Lexus SUV that comes into contact with the Traverse.

25 Q What time was this video taken?

1 A I believe that is at 5:07 a.m., if I'm not mistaken.

2 Q Thank you, Sergeant. I want to change gears again if I
3 could, and ask you about a dog.

4 You're aware that the Alberts - Nicole Albert and Brian
5 Albert had a dog that they named Chloe on July -- I'm sorry
6 -- on January 28, 29, of 2022, correct?

7 MR. BRENNAN: Objection.

8 THE COURT: I'll allow the question. Are you aware of
9 that? A At what point in time, sir?

10 Q January 28, 29, that area.

11 A Was I aware that they owned a dog on January 28 or 29?

12 Q No. Are you aware now that on January 28 or 29, they
13 owned a dog? There was a dog in the house.

14 A Now I am aware, yes.

15 Q During the course of your investigation, you learned
16 that, correct?

17 A Yes.

18 Q During the course of your investigation, did you also
19 become aware that the Alberts got rid of their family dog?

20 MR. BRENNAN: Objection.

21 THE COURT: I'm going to see you at sidebar on this,
22 please. MR. JACKSON: Sure.

23 (Sidebar commences:

24 THE COURT: Okay. So what's your offer of proof here?

1 MR. JACKSON: The Alberts did in fact get rid of their
2 family dog several months after this incident. I want to
3 say it was May of 2022. I could be off on the date. That
4 is obviously some consciousness of guilt given the very
5 obvious injuries to John O'Keefe's right arm. It's been
6 our theory from the very beginning -- I know the Court
7 wants to smirk.

8 THE COURT: No, it's the very obvious part.

9 MR. JACKSON: Of course, it's very obvious, Judge.

10 THE COURT: Okay.

11 MR. JACKSON: I'm an advocate.

12 THE COURT: Okay.

13 MR. JACKSON: If you want me to stand up here and talk
14 like a robot, I'm going to.

15 THE COURT: I just want you to point to the evidence.
16 Go ahead.

17 MR. JACKSON: Understood. Because of the injuries on
18 the right arm, not only have we theorized, but there are
19 two experts who will establish that -- actually, there's
20 three experts who will establish that those are animal
21 wounds and very likely from a large dog.

22 The Alberts got rid of their dog several months after
23 the incident. I want to find out whether this officer new
24 that they got rid of their dog, and whether or not raised

1 suspicion in his mind relative to consciousness of guilt on
2 their part.

3 THE COURT: Do you have a basis for believing that this
4 witness knows that? That's the danger here.

5 MR. JACKSON: Let's see. This is from Yuriy Bukhenik.
6 His report, "During our meeting with the owner and
7 observing the dog who has now been renamed Chloe to Cora,
8 we were also provided with paperwork." He's the one -- I
9 didn't realize it. He's the one that went up to Vermont
10 and -- or at least wrote a report about them going up to
11 Vermont to do the dental impressions. So, yeah, he knows.

12 THE COURT: Does he know when?

13 MR. JACKSON: I don't know. Let's see. The new owners
14 confirmed that Ms. Reilly adopted the dog in 2022 during
15 the month of April and possibly May.

16 THE COURT: All right. So you want to ask him whether
17 he was aware that the Alberts got rid of the dog?

18 MR. JACKSON: Correct. And whether that affected his
19 investigation, whether he found it suspicious, or whether
20 he followed up on it.

21 THE COURT: Okay. What do you say, Mr. Brennan? Now
22 that we have -- that's what I need, Mr. Jackson, are those
23 offers of proof with pointing to the evidence.

24 MR. BRENNAN: Number one, the characterization of
25 getting rid of. There's no basis to support they got rid

1 of it. The dog was rehomed. We can call it whatever we
2 want, but the implication of witnesses here not to explain
3 the process of the dog, this is not the proper witness to
4 ask that of.

5 Secondly, this is under, I suppose, the guise of
6 *Bowden*, whether there's a reasonable police investigation.

7 THE COURT: Just to be clear, that's what you're doing,
8 Mr. Jackson, right?

9 MR. JACKSON: Correct.

10 MR. BRENNAN: But if this is under *Bowden*, then there
11 has to be some relevance in time. The idea of a dog theory
12 wasn't introduced. They can have as many excuses as they
13 want, but it wasn't introduced for months and months and
14 months later. Maybe even over a year later. So when this
15 officer was doing his investigation, there was no claim
16 that the injuries were caused by a dog. He's in possession
17 of no information of any Commonwealth witness or expert
18 that this is a dog bite. That's their claim later on during
19 the trial. And so they should not be able to introduce
20 claims about the dog when there was no relevance to this
21 witness. They have no evidence that the dog in this house,
22 *Chloe*, caused these injuries. In fact, they had one of
23 their three experts already testify; the other two have
24 written reports. Nobody -- in fact they tried to prevent me
25 from saying it was excluded, the impressions. There is no

1 evidence this dog touched or connected with John O'Keefe.
2 So to create an implication, there's no good faith basis
3 for it.

4 And so the idea that Chloe could be the cause of the
5 injuries is totally unsupported on this record. This
6 argument is attempting to show a causation argument between
7 the injuries and this dog, and they'll never be able to
8 prove that. They'll never be able to prove that. And so
9 the relevance of this witness finding out a year later
10 after charges were already brought that a dog was rehomed
11 isn't relevant to *Bowden*. It's beyond the entire concept of
12 *Bowden*.

13 MR. JACKSON: The fact that the Commonwealth engaged in
14 additional investigation all the way up until this year in
15 2025 tells you that the investigation is ongoing. They are
16 desperate to try to find witnesses who will say that it was
17 not Chloe because they are obviously confronted with for
18 exact same, very uncomfortable evidence that we're
19 confronted with, for them.

20 THE COURT: Can I see that report, please?

21 MR. JACKSON: I know. I know.

22 THE COURT: All right. So what you're permitted to do
23 under *Bowden* with this witness at this time, so he's just
24 testified that he learned that the Alberts had a dog named
25 Chloe in January 29, 2022. You can put in through at this

1 time through this witness that he that later learned -- and
2 this is the date, right?

3 MR. BRENNAN: That's when he learned. That's when he
4 went and saw the dog.

5 THE COURT: When did he learn that the dog had been
6 given up for adoption? So, Mr. Brennan, I just asked you a
7 question.

8 MR. BRENNAN: I'm sorry, Your Honor.

9 THE COURT: When did Trooper Bukhenik learn that the
10 dog had been given up for adoption? What's the phrase --
11 I'm not going to let you say --

12 MR. JACKSON: Of course I can say "got rid of". We're
13 talking about how many answers -- how many angels can dance
14 on the head of a pin. I'm cross-examining someone, Judge.

15 THE COURT: So --

16 MR. JACKSON: You're neutering me.

17 THE COURT: No, I'm giving you a ruling with this
18 witness at this point.

19 MR. BRENNAN: I think that he would know before he went
20 up and saw the dog, that the dog had been rehomed. When he
21 learned the dog had been rehomed, I don't know. This is --

22 THE COURT: So find out for him when he learned the dog
23 had been rehomed.

24 MR. JACKSON: That's what I was trying to do.

25 THE COURT: Okay. Not get rid of. Okay.

1 MR. JACKSON: You're denying the ability to cross-
2 examine a witness on the issue of whether or not a family
3 got rid of their dog. How much more English can it be?
4 Got rid of, rehomed. I've never heard the word rehomed.
5 That's not my word. That's the Commonwealth's word. I
6 don't have to adopt --

7 THE COURT: Hold on. Hold on. I'm concerned it's
8 argumentative. Tell me what the question is that you want
9 to ask.

10 MR. JACKSON: At some point, did you learn that the
11 Albert family got rid of their dog?

12 THE COURT: Okay.

13 MR. JACKSON: Got rid of it by selling it, got rid of
14 it by rehoming it, got rid of it by adopting it, you get
15 rid of a car, you get rid of a watch, you get rid of a
16 ring, you get rid of a dog. I didn't say kill it.

17 THE COURT: Go ahead.

18 MR. BRENNAN: The objection I have is they're trying to
19 reflect the state of mind of Brian Albert, and they
20 shouldn't do that through this witness. They should call
21 Brian Albert. He learned that the dog -- to say got rid of
22 it, suggests the state of mind of Brian Albert. Call Brian
23 Albert. He learned that the dog no longer was at 34
24 Fairview, whatever he learned, I don't know. He later

1 learned where the dog was and then he later visited the
2 dog.

3 MR. JACKSON: Your Honor, the Commonwealth can't have
4 it both ways. To say he was rehomed is also getting into
5 the mind of Brian Albert. Got rid of is simply the most
6 basic English language. Both base it's not invective; it's
7 not argumentative. They can say what they want. Did they
8 get rid of it? Yeah. They got rid of it, how? By rehoming
9 it. Did they get rid of it? Yeah. They got rid of it,
10 how? By burying it the backyard. Got rid of it is a basic
11 English lexicon.

12 THE COURT: Tell me what you want exactly from this
13 witness. MR. JACKSON: Did you learn at some point during
14 the course of your investigation the Albert family got rid
15 of their dog.

16 THE COURT: So we need to find out when they learned,
17 okay?

18 MR. JACKSON: Right, well --

19 THE COURT: Not just at some point.

20 MR. JACKSON: The predicate question is, did you learn,
21 and the second question is, when did you learn. The first
22 question presumes the facts not in evidence.

23 THE COURT: Well, you can do that on cross-examination.

1 MR. BRENNAN: I don't think I should be able to say
2 rehome either because I think that is trying to get into
3 the mental state of --

4 THE COURT: So you can say get rid of, and you can go
5 back up. I agree, there are certain things that you need a
6 witness for. But I agree, Mr. Jackson's convinced me that
7 it is a common term.

8 MR. JACKSON: Okay. Thank you, Judge. I appreciate it.
9 end of sidebar.)

10 MR. JACKSON: I think I forgot where I left off. May
11 I, Your Honor?

12 THE COURT: Yes.

13 Q Sergeant, at some point during the course of your
14 investigation, did you learn that the Albert family had
15 gotten rid of the dog named Chloe?

16 A We learned that they no longer cared for the dog. I
17 don't know if getting rid of is accurate.

18 Q Well, they don't have it anymore, right?

19 A Yes.

20 Q So what would you call it?

21 A Giving it up for adoption, I guess. I don't know. I'm
22 not a pet owner.

23 Q What if they didn't give it up for adoption?

24 A I'm sorry?

25 Q What if they didn't give it up for adoption?

1 A Rehomed I guess?

2 A Okay. So it's no longer with them, right?

3 A Correct. They no longer own the dog.

4 Q Okay. So they got rid of it, like you get rid of a
5 car, right? Right?

6 A You can get rid of a car, yeah.

7 Q Okay. And can you get rid of a dog. That's all I'm
8 asking.

9 A Yes, you can get rid of a dog, yes.

10 Q At some point during the course of your investigation,
11 did you find out that the Albert family got rid of Chloe?

12 A We learned that they no longer owned Chloe, yes.

13 Q When did you learn that?

14 A I cannot tell you exactly. I could tell you when we
15 looked into it, officially.

16 Q When did you look into it officially?

17 A I traveled to the dog's home and assisted with
18 identifying the dog and investigating that animal.

19 Q What documentation did you use to identify that animal?

20 A It was veterinary records.

21 Q I want to stop you there. Veterinary records from
22 whom, from the Albert family?

23 A I did not get any veterinary records from the Albert
24 family.

1 Q The veterinary records that you did get were veterinary
2 records that had been utilized with the Albert name? Where
3 did -- where are these veterinary records from?

4 A The veterinary records were with the vet that's caring
5 for the dog and also owns the dog now.

6 Q Okay.

7 A And those records also had been dated prior to when the
8 dog was owned by the Alberts.

9 Q Okay. So other than some veterinary records that --
10 and by the way, the dog is not even named Chloe, correct?

11 A The new owners renamed the dog.

12 Q To Cora?

13 A That's correct.

14 Q And the new owners did not get that dog from Brian and
15 Nicole Albert, did they?

16 A No, they did not.

17 Q They got it from a separate person; is that right?

18 A That is correct.

19 Q Separate person named Riley?

20 A That's her last name, yes.

21 Q And did this person, Riley have any records showing the
22 purchase of Chloe or adoption of Chloe from the Alberts?

23 A No.

24 Q You did write a report about the newest owner of this
25 dog, correct?

1 A I documented my trip to the location and the steps I
2 took and services I provided in the investigation.

3 Q And in that report, you omitted the name of the new
4 owner?

5 A I'm not sure.

6 Q Did you omit the location of where you actually came in
7 contact with this animal?

8 A You're going to have to show me my report. I don't
9 remember.

10 MR. JACKSON: May I approach, Your Honor?

11 THE COURT: Yes.

12 MR. JACKSON: Okay. I apologize about that. I'm the
13 one slowing down just a little bit.

14 May I approach?

15 THE COURT: Yes.

16 Q Did this reviewing your report refresh your
17 recollection as to whether or not the new owners
18 identifying information is in this report?

19 A It did.

20 Q And is that information in the report?

21 A No, it is not.

22 Q You've got -- there are some veterinary records that
23 you supplied along with your report, correct?

24 A Yes.

25 Q That you gathered?

1 A I'm sorry?

2 Q That you gathered along --

3 A Yes.

4 Q -- while you were doing the report?

5 A Yes.

6 MR. JACKSON: May I approach?

7 THE COURT: Yes.

8 Q If you'll take a look at those four documents. Do
9 those appear to be the veterinary records that you gathered
10 related to this animal?

11 A Yes, it does.

12 Q Do any of those records, any of the veterinary records,
13 the four pages that you're holding, even include the name
14 Cora or the name of the new owner?

15 A I browsed through it, and, no, it does not appear that
16 Cora or the new owner are included in any of these four
17 pages.

18 MR. JACKSON: May I approach?

19 THE COURT: Yes.

20 Q You don't have any transfer records for Chloe, correct?

21 A All the records are provided by the owner.

22 Q I'm going to go through a series of questions,
23 Sergeant. If you can answer it yes or no, that might make
24 it go a little faster.

25 You don't have any transfer records, correct?

1 A I wouldn't know what it looks like. That's why I --
2 it's quicker me telling you that's all the records that I
3 have.

4 Q Okay. I want an answer to my question. You don't have
5 any transfer records?

6 A I don't know what a transfer record would like so --

7 Q So you don't have any?

8 A I don't know.

9 Q You don't have any rehoming records?

10 A I don't.

11 Q You don't have any purchase records?

12 A I don't.

13 Q The only records you do have are those four pages of
14 veterinary records that don't have the name Cora and don't
15 have the new owner's name, correct?

16 A That's correct.

17 Q You would agree, shifting gears for a second, that
18 timely report writing, obviously, is an important aspect of
19 any investigation, correct?

20 A It is important, but we can only write reports as
21 feasibly and possibly we're capable of doing. Sometimes
22 investigations are rapid, so you can't write report. That's
23 why we take notes, and if sometimes goes by before you
24 actually document the information on an official report,
25 the information is there. It's gathered. It's maintained

1 by the investigator. It's shared. It's acted on the
2 times, but the official reports might take some time to
3 write.

4 Q So obviously if you're -- you know, like you said
5 things are fast-moving in an investigation, it might be
6 that you interview a witness on a Tuesday, you're super
7 busy on Tuesday, Wednesday, Thursday, it might be Friday
8 before you can even sit down and draft a report about that
9 interview that you did on Tuesday, correct?

10 A Different circumstances dictate differently.

11 Q That would be completely normal?

12 A Yes, it is.

13 Q Most of the time, it's practices and you're taught and
14 you teach your subordinates that it's best practices to
15 reduce to writing and memorialize a report as close in time
16 to the event in question that's being memorialized as you
17 can, right, obviously in a perfect world?

18 A In the perfect world, you would write it as it's
19 happening.

20 Q Are you aware that more than 20 official police reports
21 in this case were not reported for more than 100 days from
22 the time that the event in question was done, was being
23 memorialized?

24 A I did not know the exact date in delay.

1 Q Are you aware that there are 11 reports that are more
2 than 300 days from the time of the event that was being
3 memorialized?

4 A I was not aware, no.

5 Q Are you aware that there are three reports that are
6 more than four hundred days from the time of the event that
7 was being memorialized?

8 A I am not aware, no.

9 Q Are you aware that there are four reports that more
10 than five hundred days from the time of the event that's
11 being memorialized?

12 A I am not aware, no.

13 Q Are you aware that the longest delay of any report in
14 this investigation was 581 days?

15 A I am not aware of that, no.

16 Q You became aware early on in your investigation of two
17 individuals named Ricky D'Antuono and Heather Maxon,
18 correct?

19 A They are witnesses, yes.

20 Q Both Ricky D'Antuono and Heather Maxon, you learned,
21 were outside of 34 Fairview in the early morning hours of
22 January 29, correct?

23 A We did learn within our investigation at some point,
24 yes.

1 Q And you learned, Sergeant, very early on in that
2 investigation because you interviewed Ryan Nagel in
3 February of 2022, it was just days after the event,
4 correct?

5 A I'm not sure of the exact date.

6 Q Obviously, as you just said, you became aware that
7 Ricky D'Antuono and Heather Maxon were witnesses in your
8 homicide investigation, important witnesses, you'd agree,
9 correct?

10 A They were witnesses.

11 Q You learned that they arrived at the house at 34
12 Fairview sometime after Karen Read and John O'Keefe arrived
13 and pulled up behind their parked SUV, correct?

14 MR. BRENNAN: Objection.

15 THE COURT: I'm going to allow that.

16 A Can you repeat that, please?

17 Q Sure. When you learned that where they fit into the
18 investigative puzzle is that they pulled up behind Karen
19 Read -- Karen Read's SUV when Karen Read and John O'Keefe
20 arrived at 34 Fairview, they pulled up sometime after that
21 and pulled up right behind him, correct?

22 A That's not correct.

23 Q What is not correct about that?

24 A They arrived, simultaneously. Karen Read took a right
25 onto Fairview. They yielded for them and followed towards

1 34 Fairview stopping at the driveway as Karen Read
2 proceeded further up.

3 Q Did you listen to the testimony on this case up to this
4 point?

5 A No.

6 Q There's a sequestration order, correct? Correct?

7 A Yes.

8 Q Which means you can't listen to the testimony of
9 witnesses, eyewitnesses, who are testifying in front of
10 these jurors; is that correct?

11 A Correct, yes.

12 Q So you don't know how witnesses have testified from
13 that witness box in front of these jurors, correct?

14 A I have no idea.

15 Q So your information is that they pulled up
16 simultaneously, correct?

17 MR. BRENNAN: Objection.

18 THE COURT: Is that what you just testified to, sir?

19 THE WITNESS: That's my memory from that they
20 investigate -- the interview was.

21 THE COURT: Okay.

22 Q You certainly knew that there were eyewitnesses to the
23 condition and the location of Ms. Read's SUV, correct?

24 A Yes, yes.

1 Q And you also are aware that they would have been in a
2 position to see the occupants of Ms. Read's SUV as they
3 were behind it and then pulled around it, correct?

4 MR. BRENNAN: Objection.

5 THE COURT: Sustained.

6 Q Did you become aware they were in a position behind the
7 SUV and as they pulled around it, they could still see the
8 SUV?

9 MR. BRENNAN: Objection.

10 THE COURT: Sustained.

11 Q You knew what potential role they played in your
12 investigation as eyewitnesses, correct, generally?

13 A When we interviewed them, when we learned of their
14 existence and we interviewed them, we collected information
15 based on their recollection.

16 Q Okay. My question was, you're aware that they had a
17 certain perspective as it relates to the SUV that night or
18 early morning hours, correct?

19 A Based on their interviews, they had a perspective with
20 the brake light being on constantly.

21 Q I'm not asking you what they said. I'm asking you if
22 during the course of your investigation you learned that
23 Ricky D'Antuono and Heather Maxon had a perspective, they
24 were eyewitnesses to certain things?

25 A Yes.

1 Q Relative to the SUV, correct?

2 A Yes.

3 Q Yes. You instructed your subordinate Michael Proctor to
4 interview those witnesses in August of 2022, correct?

5 A I'm not sure when they were interviewed. I don't have
6 a memory of instructing him to go and interview them.

7 MR. JACKSON: May I approach, Your Honor?

8 THE COURT: Yes.

9 Q Can you take a look at that document and tell me if you
10 -- why don't you just tell me if that -- whether or not
11 that refreshes your recollection as to communications you
12 had with Michael Proctor, specifically?

13 A (Witness complies.)

14 Q Thank you, Sergeant. Does that refresh your
15 recollection as to a conversation or, I'm sorry, a
16 communication that you had with Michael Proctor?

17 A Unfortunately, it does not. I will take the document
18 at face value. I do not have a memory of having these
19 communications, but I will take the document -- it's
20 authenticate and it is true and accurate that it took
21 place. But I do not have a memory of sending these text
22 messages.

23 MR. JACKSON: May I approach, Your Honor?

24 THE COURT: Yes.

1 A Also my name is misspelled in there. Is that from the
2 extraction or where is that from?

3 Q Couldn't tell you. Wasn't me.

4 A Appreciate it. Thank you.

5 Q I can't take credit for that. If your memory is not
6 refreshed about that particular communication, do you
7 remember in general communicating with Michael Proctor
8 about interviewing Ricky D'Antuono and Heather Maxon?

9 A I do not, no. Sorry.

10 Q Would that have been something you would've found
11 important relatively early on in this investigation, that
12 these are eyewitnesses, let's get them in and interview
13 them.

14 A Yes, it is important to interview anyone that's an
15 eyewitness. Sometimes it takes because -- are you
16 listening?

17 Q I am. Thanks.

18 A You asked the question, I just --

19 Q Oh, yeah. I know the answers to my own questions. Go
20 ahead. A So while we want to interview every eyewitness,
21 sometimes an important factor is already detailed and
22 witnessed by another witness. So in this situation we had
23 already interviewed one of the occupants, the one that was
24 driving, the one that we had observed the events taking
25 place, and we asked them if we were going to talk to the

1 other two, would they have same recollection, observations,
2 did they leave vehicle to go in the house at all, anything
3 different. So that's ...

4 Q Okay. So it would be important, obviously, to interview
5 witnesses in a timely manner?

6 A In some instances, yes.

7 Q Okay. Do you remember when Trooper Proctor actually
8 interviewed Ricky D'Antuono and -- I'm sorry -- when --
9 yes, when Michael Proctor interviewed Ricky D'Antuono and
10 Heather Maxon?

11 A I do not have a memory of that, no. I'm sure a report
12 would indicate when.

13 MR. JACKSON: May I approach, Your Honor?

14 THE COURT: Yes.

15 Q I may have misspoken, Sergeant. Take a look at that.
16 I thought that was a report from somebody else. It's a
17 report from you, actually.

18 Tell if that refreshes your recollection as to when
19 Ricky D'Antuono was actually interviewed?

20 A Yes. This report authored by me was -- states that on
21 Saturday, September 2, he was interviewed.

22 Q What year?

23 A 2023.

24 Q So that would have been a year and a half later,
25 correct?

1 A Yes.

2 Q Do you believe that's timely report, or rather a timely
3 interview for an eyewitness, the gravity of which is
4 described in your report?

5 A Again, perfect, ideal world scenario it would be
6 quicker.

7 Q So that would be not no excuses, I'm not throwing
8 barbs, but that would be untimely, correct, a year and a
9 half later?

10 A We do the best we can.

11 Q You indicated that your memory was that the cars
12 arrived simultaneously. That's from an interview with
13 Ricky D'Antuono. Do you see the highlighted portion?

14 A I see it.

15 Q Ricky D'Antuono actually told you the car was parked,
16 correct?

17 MR. BRENNAN: Objection.

18 THE COURT: The objection's sustained.

19 MR. JACKSON: Your Honor, may we approach, please?

20 THE COURT: Yes. Can I see that, please?

21 (Sidebar commences:

22 THE COURT: Okay. So I didn't know this was still his
23 report. So what are you going to do, Mr. Jackson?

1 MR. JACKSON: I'm just going to impeach him with Ricky
2 D'Antuono's actual statement that the car was parked when
3 they arrived.

4 MR. BRENNAN: This is improper impeachment. He's not
5 impeaching this witness's memory. What he's doing is
6 before he shows the report, he's asking the witness to try
7 to guess or characterize something that is said, and then
8 he'll take the report and try to contradict something that
9 he had to guess at to begin with. He doesn't come up and
10 present the report, ask him a question from the report.
11 He's not asking him his independent memory or his options -
12 - his percipient, what he saw, what he smelled, what he
13 heard, what he tasted. He's setting him up and making him
14 generalize something and then going into more detail and
15 saying, well, when you didn't say it this way. He didn't
16 say that he saw the cars come up simultaneously. He said
17 his memory is that's what the witnesses told him. He
18 didn't blurt that out. That was at the invitation of
19 Attorney Jackson to try to characterize something that I
20 objected to, by the way. And so this attempt to impeach
21 him is a phantom impeachment. What it is, it's an attempt
22 to set up a witness by trying to get him to guess at
23 something, then using the report to say it's inconsistent
24 with what they're guessing again. This is not impeachment
25 at all.

1 MR. JACKSON: Your Honor, this couldn't be more classic
2 impeachment if I tried. I can't walk up. Mr. Brennan --

3 THE COURT: We're getting --

4 MR. JACKSON: Let me finish.

5 THE COURT: Hold on.

6 MR. JACKSON: Every time I'm making my point --

7 THE COURT: I just -- this helps me. No, no. I just
8 want to know what it is that -- I heard him say they
9 arrived simultaneously. What was that in response to? I
10 need to know that to rule on this.

11 MR. JACKSON: He said --

12 THE COURT: No, what was your question.

13 MR. JACKSON: My question, he didn't answer the
14 question that I asked. My question was, these are
15 eyewitnesses and they indicated that they pulled up when
16 the car was parked and saw certain things, the condition of
17 the vehicle, and the occupants, et cetera, and he said, no,
18 that's not correct. And I said, what's not correct about
19 it? And he said, Ricky D'Antuono told me that they pulled
20 up simultaneously. This impeaches that.

21 THE COURT: Okay. So you can do this.

22 MR. JACKSON: Okay. Thank you.

23 end of sidebar.)

24 MR. JACKSON: May I approach, Your Honor?

25 THE COURT: Yes.

1 MR. JACKSON: Thank you.

2 Q Isn't it true that when you interviewed Ricky
3 D'Antuono, he indicated that upon their arrival at home --
4 at the home, sorry, at 34 Fairview, quote, a dark colored
5 SUV was parked in front of the home facing up towards
6 Chapman Street. That's what he told you, correct?

7 A That's what the report indicates for Ricky's interview,
8 yes.

9 Q And in fact, you wrote this report based on Ricky's --

10 A I wrote that report, yes.

11 MR. JACKSON: Thank you. If I may have just a moment,
12 Your Honor.

13 THE COURT: Yes.

14 MR. JACKSON: If I may just have a moment, Your Honor.
15 Your Honor, this is -- I'm just about to start an
16 entirely new section.

17 THE COURT: Why don't we come to sidebar?

18 MR. JACKSON: Sure.

19 (Sidebar commences:

20 THE COURT: Please don't do scheduling matters from the
21 floor. I often ask.

22 MR. JACKSON: I apologize.

23 THE COURT: So what do you have? How much do you have
24 with this witness?

1 MR. JACKSON: I've got quite a bit, but I was about to
2 start a new relatively big section and if everybody's
3 pooped, I thought maybe it's a good place to stop.

4 THE COURT: No, I have no problem.

5 MR. JACKSON: I'm sorry. I didn't mean to overstep.

6 THE COURT: It's hard for me to say no after somebody
7 does it from the floor.

8 MR. JACKSON: It's a good point. I need to remember
9 that.

10 THE COURT: So just we can break here. So I can tell
11 the jurors our scheduling. How much longer do you think
12 you have with Sergeant Bukhenik?

13 MR. JACKSON: I think I will be another three hours
14 with him. I suspect that I will take up the entirety of
15 the morning on Monday and possibly into the afternoon.

16 THE COURT: Can we finish him on Monday?

17 MR. BRENNAN: I have no idea how long he's going to
18 take.

19 THE COURT: Okay.

20 MR. JACKSON: It is lengthy. I'm sorry.

21 MR. BRENNAN: Don't apologize to me.

22 THE COURT: I apologize to Mr. Brennan and I apologize
23 to you. It is very lengthy, but it's important, so.

24 THE COURT: Yeah, I don't -- I'm just asking. I'm not
25 trying to shorten anything.

1 MR. JACKSON: Sure.

2 THE COURT: Witness issues?

3 MR. BRENNAN: There will be a little bit length on the
4 redirect.

5 THE COURT: Okay.

6 MR. BRENNAN: We'll have eyewitnesses here, even if
7 they don't get called.

8 THE COURT: I'm not sure you'll get to witnesses.

9 MR. BRENNAN: I'm not either.

10 THE COURT: And that's why I'm concerned about the
11 medical examiner who's in great demand all over the
12 Commonwealth.

13 Do you want to plan on her for Tuesday?

14 MR. BRENNAN: I'm going to have to call because unlike
15 most witnesses, we can't tell them to come in. I don't
16 know why because they're under subpoena, but it becomes a
17 whole thing where we have to accommodate. So I will make
18 call as soon as we get back.

19 THE COURT: Okay.

20 MR. BRENNAN: I don't know it makes sense to bring her
21 in on Monday at this point.

22 THE COURT: I don't either.

23 MR. BRENNAN: I don't know when she's be available
24 again, but we'll ask for Tuesday.

25 THE COURT: Okay. Are we still on track given the

1 new --

2 MR. BRENNAN: I think we're still way ahead giving what
3 we earlier predicted.

4 THE COURT: I'm not going to tell the jurors we're way
5 ahead.

6 MR. BRENNAN: But I wanted to end next Wednesday.
7 That's not going to happen now.

8 THE COURT: Might you end next week?

9 MR. BRENNAN: Yes, but for the fact that Jud Welcher
10 maybe one of our last witnesses, and he's not available on
11 Friday. So if he gets done on Thursday, we could
12 potentially end on Thursday. It all depends on how long
13 Monday goes, and, you know, I can't predict the length of
14 cross-examinations. Could I get my case in? Sure. I'm
15 hoping to end next week. I think the quicker the better
16 from my perspective, but it might go into the following
17 week, which would still be on schedule. But I'm going to
18 try to finish next week.

19 THE COURT: Okay. So the record is clear, Dr. Welcher
20 is excused from having to be here at all next Friday.

21 MR. BRENNAN: Thank you.

22 THE COURT: So he may have to go into the following
23 Monday. We'll see where the evidence is.

24 I am not tying your hands in any way. Do you
25 anticipate putting on a defense, calling witnesses?

1 MR. JACKSON: Yes, we do.

2 THE COURT: How long do we think that might take? Are
3 we still in the week and a half to two weeks that you said
4 it would be?

5 MR. JACKSON: Probably week and a half, yes.

6 THE COURT: Okay. As long as we can get that in a six
7 to eight week time frame.

8 MR. JACKSON: Yes.

9 THE COURT: That we allotted more than six to eight
10 weeks for, we're good. So I'm going to tell them we're
11 right on schedule.

12 MR. JACKSON: Perfect.

13 MR. BRENNAN: Great.

14 THE COURT: Ten o'clock Monday morning.

15 MR. JACKSON: Thank you, Judge.

16 end of sidebar.)

17 THE COURT: All right, Jurors, especially as this moves
18 along, I think it becomes more important for me to talk to
19 the lawyers about scheduling to give you some idea on how
20 we're doing.

21 I can tell you that everybody's in agreement that we
22 are right on schedule. So we're not behind schedule,
23 optimistically, maybe we're still a little bit ahead. But
24 we are on schedule for planning purposes.

1 Monday, I'm going to ask you all to come in at 10:00.
2 So we'll start at 10 o'clock on Monday, and we will go a
3 full day Monday. I believe every day next week will be a
4 full day.

5 So we will see you next week. Those same cautions.
6 Please do not discuss this case with anyone. Don't do any
7 independent research or investigation into this case. If
8 you happen to see, hear, or read anything about this case,
9 please disregard it and let us know. Be very careful with
10 your social media use, and have a great weekend and we'll
11 see you Monday at 10:00.

12 Sergeant, we need you back then.

13 (Jury out.)

14 THE COURT: All right. So Monday, we'll start with the
15 jury at 10:00. If you need me before 10:00, please let
16 people know so that we can deal with anything we can
17 beforehand. I'll be here before 10:00.

18 MR. JACKSON: Certainly, Your Honor.

19 THE COURT: All right. We'll see you all.

20 MR. BRENNAN: Thank you, Your Honor.

21 (Court in recess at 4:00 p.m.)
22
23
24
25

C E R T I F I C A T I O N

I, CHRISTINE D. BLANKENSHIP, NOTARY PUBLIC, DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND ACCURATE TRANSCRIPT FROM THE RECORD OF THE COURT PROCEEDINGS IN THE ABOVE-ENTITLED MATTER.

I, CHRISTINE D. BLANKENSHIP, FURTHER CERTIFY THAT I NEITHER AM COUNSEL FOR, RELATED TO, NOR EMPLOYED BY ANY OF THE PARTIES TO THE ACTION IN WHICH THIS HEARING WAS TAKEN, AND FURTHER THAT I AM NOT FINANCIALLY NOR OTHERWISE INTERESTED IN THE OUTCOME OF THIS ACTION.

Christine D. Blankenship, May 25, 2025

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